



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

September 21, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Yamhill County Plan Amendment
DLCD File Number 007-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 8, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Ken Friday, Yamhill County

<paa> yal

FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

<input type="checkbox"/> In person	<input type="checkbox"/> electronic	<input type="checkbox"/> mailed
DEPT OF		
SEP 18 2007		
LAND CONSERVATION AND DEVELOPMENT		
For DLCD Use Only.		

Jurisdiction: **Yamhill County**

Local file number: **PAZ-04-07**

Date of Adoption: **9/5/2007**

Date Mailed: **9/17/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **4/16/2007**

☐ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Rezone the property from exclusive farm use to rural residential use to allow one single-family dwelling.

Does the Adoption differ from proposal? No, no explanation is necessary
same as above

Plan Map Changed from: **AFLH**

to: **VLDR**

Zone Map Changed from: **EF-80**

to: **VLDR 2.5**

Location: **North of Amity**

Acres Involved: **3**

Specify Density: Previous: **1dw/80 ac**

New: **1dw/2.5 ac**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☒ YES ☐ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD # 007-07(16032)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Ken Friday**

Phone: **(503) 434-7516** Extension: **3630**

Address:

Fax Number: - -

City:

Zip:

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE 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 Approval of a Comprehensive Plan amendment)
from Agriculture/Forestry Large Holding to Very Low Density)
Residential & a Zone Change from EF-80 Exclusive Farm Use) Ordinance 815
to VLDR 2.5 Very Low Density Residential, Tax Lot)
5420CA-1100, Docket PAZ-04-07, Applicant Richard Kelly,)
and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on September 5, 2007, Commissioners Mary P. Stern and Leslie Lewis being present, Commissioner Kathy George being excused.

IT APPEARING TO THE BOARD that Richard Kelly requested approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Very Low Density Residential and a zone change from EF-80 Exclusive Farm Use to VLDR 2.5 Very Low Density Residential, taking an exception to Goals 3 and 14, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed public hearing before the Planning Commission on July 19, 2005, which unanimously recommended approval; and a public hearing was held before the Board on August 22, 2007. After hearing testimony from the applicant the Board voted 3 to 0 to approve the application with a limited use overlay zone with conditions related to development of a single-family residence. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. 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 this 5th day of September, 2007, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk

By Anne Britt
Deputy Anne Britt

APPROVED AS TO FORM
Rick Sanai

Rick Sanai, Assistant County Counsel F:\LU\KellyRichardOrdinance.wpd



excused
Chair KATHY GEORGE
Mary P. Stern
Commissioner MARY P. STERN
Leslie Lewis
Commissioner LESLIE LEWIS

B.O.07-845

Findings Exhibit A

DOCKET: PAZ-04-07

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Very Low Density Residential; a zone change from EF-80 Exclusive Farm Use to VLDR 2.5 Very Low Density Residential. An exception to Goals 3 and 14 is also required. Approval of the request would allow one single-family dwelling.

APPLICANT: Richard D. Kelly

REPRESENTATIVE: Jerry Hart, Esq.

TAX LOT: 5420CA-1100

LOCATION: North of the parcel addressed as 100 First Street, Amity

CRITERIA: Sections 402, 502 and 1208.02 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan. OAR 660-04, Exception Process. Goal 14 Exception OAR 660-014-0040. OAR 660-12-0060 Transportation Planning Rule. Section 904, Limited Use Overlay may also be applied.

A. Background Facts:

1. Property size: Approximately 3.15 acres.
2. Access: The owner of the subject lot also owns the property to the north, Tax Lot 5420CA-1200. The applicant states that he has access to Highway 99W (Trade Street) via a private easement, which he intends to extend to the subject parcel.
3. On-site Land Use: The property slopes down to the west into Salt Creek. The property is bordered to the east by the railroad. The land is an open field which the applicant indicates was used as recently as 2006 as pasture for sheep.
4. Surrounding Land Use: The applicant has given a description of the surrounding land use in their application which shall not be completely repeated here. The property north of the subject parcel is 2.15 acres, is owned by the applicant and contains a single-family residence. Property to the south is 7.33 acres and is predominantly zoned EF-80. A small portion of the property is zoned LDR 6750 Low Density Residential. This area contains the single-family residence. Much of this parcel appears to be unmanaged. Property to the east, across the railroad line, is inside the Amity city limits and is developed residential

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property. Property to the west, across Salt Creek, is a parcel of approximately 150 acres that is managed as farmland.

5. Surrounding Zoning: The property borders the city of Amity on its eastern boundary. Inside the city limits the property is zoned for residential use. Adjacent zoning to the north, south and west is EF-80 Exclusive Farm Use. The parcel to the south has a small area zoned LDR 6,750 Low Density Residential.
6. Water: To be provided by an on-site well.
7. Sewage Disposal: To be provided by on-site septic system.
8. Fire Protection: Amity Rural Fire District
9. Soils: The Yamhill County Soil Survey shows that 19% of the subject property parcel is composed of Cove, a soil that is rated as agriculture Class III. Cove is not rated as high-value farmland. The remainder of the soil (81%), is Woodburn Silt Loam, rated as Class II high-value farmland.
10. Taxes: The entire parcel is receiving farm deferral.
11. Previous Actions: None
12. Floodplain: FIRM 410249 0477 C, shows that the western, approximately 2.1 acres, of the property is within the 100-year flood hazard area.
13. Fish and Wildlife: Salt Creek, on the western boundary of the parcel, is identified as fish habitat.

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.*
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- (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. Regarding criterion (A) above, Plan goals and policies which staff feels 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;

Approximately 2/3 of the property is within the 100 year floodplain, as shown on FIRM 410249 0320 C. There are some slopes but there appears to be adequate area for construction of residences on each existing parcel. The sanitarian has not done a site evaluation on the property.

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 proposed zone change would not require the extension of utilities or services to the area. Water and sewer would need to be provided by on-site systems. Other services such as electricity, telephone, sheriff and fire protection already serve the existing residents in 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 property is in close proximity to *existing urban centers* in that the property is adjacent to the City of Amity. The last sentence of the "Purpose" section in the VLDR zone states that:

In areas immediately adjacent to urban centers, the VLDR Districts are intended as transitional zones between F-80, EF-20, -40 or -80, AF-20, -40 or -80 and AF-10 Districts and higher-density LDR Districts or urban districts identified in city comprehensive plans.

Presently there are no transition zones in the immediate area that go from urban areas to farm zones. Approval of this request will create a desirable transition zone that goes from urban zoning to farm zoning.

Approval of the request will also not require more than a very basic level of service. The magnitude of proposed development would be one additional home site. One additional home-site would not require more than a very basic level of services such as a single local access road and an individual septic/water system.

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.

It appears the proposed zone change would cause little interference with the use of other farm and forest land in the vicinity. The closest farm use appears to be to the west, across Salt Creek, where the property is planted to a grass or grain crop. The applicant argued (and the Board agrees) that the property is not economically feasible for farm or forest production but this is not the sole argument for rezoning the property.

3. Regarding criterion (B), the applicant needs to show 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).

Traditionally, the county has looked at the amount of development in the nearby exception areas. In this case the most recent development numbers we have are from, June 25, 1999. They looked at the two Amity exception areas. The results are as follows:

Area	Zone	Existing Lots	Developed Lots	Vacant Lots	Potential New Lots
5.15	AF-10	312	39	3	0
5.16	VLDR-2.5				

These numbers are not up to date but they are the most recent. The applicant submitted a letter from a realtor stating that additional residential acreage would be desirable: "I have reviewed the current listings for properties of this general size (2.5 acres to 3.5 acres). As of the date of this letter there are no properties listed which are in that size category. The current demand for properties of this size exceeds this limited supply." That letter, and all of the applicant's other materials, are hereby incorporated into these findings by this reference.

The Board finds there is a need for additional zoning of this type. There is an existing demonstrable need for the particular uses allowed in the VLDR 2.5 zone in that there are few, if any, properties currently on the market in the area of the subject property, and there is a current unmet demand for such property by the citizenry of Yamhill County in the area of the subject property.

4. Regarding criterion (C), the proposed change has been shown to be 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. Surrounding land uses to the east are residential lots. Somewhat larger residential lots exist to the north and south. Land to the west, across Salt Creek, is in farm use. Combining this lot with property to the west does not appear to be reasonable due to the existence of Salt Creek.

Regarding the availability of utilities and services in the area, the lots in the surrounding area have on-site systems for sewer and water hook-ups. Other services such as electricity, telephone, sheriff and fire protection already serve the existing residents in the area.

5. Regarding criterion (D), the applicant has shown (and 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). As stated in Finding B.3 the applicant showed there are only three other vacant parcels in the VLDR 2.5 zone.
6. Regarding criterion (E), an exception to Goal 3 will be required, as addressed in Section C of these findings below. In addition, an exception to Goal 14 is required. The criteria related to Goal 14 are found in OAR 660-014-0040.

C. Goal Exception Provisions and Analysis

1. Oregon Administrative Rule (OAR) 660-04 contains the requirements for taking an exception to the goals. The applicant 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. OAR 660-04-028(3) states in part that *"It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:*

(a) Farm use as defined in ORS 215.203;

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a)."

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 and 4, findings must be made that farm and forest uses are impracticable in the proposed exception area.

3. *Characteristics of the exception area:* The proposed exception area is about 3.15-acres in size. The property slopes down to the west into Salt Creek. The western two-thirds of the property is in the 100-year Flood Hazard Overlay zone. The exception area is bordered by the City of Amity to the east and by Salt Creek to the west. The property has been used in the past as pasture.
 4. *Characteristics of the adjacent lands:* Property to the east is inside the Amity City limits and contains developed urban residential parcels. Properties to the north and south are of a size similar to the applicant's parcel and are each developed with a single-family residence. Property to the west is part of a large scale farming operation. The property is planted with a grass or grain crop. This farming operation is physically separated from the subject parcel by Salt Creek.
 5. *The relationship between the exception area and the lands adjacent to it:* The proposed exception area is similar in character to the adjacent lands to the north and south that are each developed with a home-site. The use of the subject property has been for low
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intensity agriculture, predominantly pasture. The natural feature of Salt Creek effectively separates the subject property from the resource property to the west (farm land) and the proposed urban use of the subject property will therefore not affect the farm land to the west and will not lead to the urbanization of that property across Salt Creek to the west. The lands to east is in urban use, the parcel to the south cannot be accessed due to the existence of a ravine and therefore cannot be combined with the subject property. A significant portion of the 2.15 acre property to the north also owned by the applicant is within the 100 flood overlay zone and there is a ravine which separates the 2.15 acre parcel from the property north which is in separate ownership. These natural features make it impracticable to combine the subject property with other resource properties.

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. The existing uses are addressed above. Regarding public facilities and services, they are generally available in the area. As mentioned previously, the natural feature separating the proposed exception area from adjacent resource land is Salt Creek. The other factors have been addressed elsewhere in these findings.
7. Regarding the "irrevocably committed" standards, 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.*

The property is bordered to the east and west by major physical features, namely the railroad and Salt Creek. The parcels to the north and south are well below the 80-acre minimum lot size. The main argument against the rezoning is that the owner also owns the property to the north, thereby making the ownership a 5.3 acre tract. However, even if the property were combined together to be 5.3 acres its farm production potential is still very limited by virtue of its location and the neighboring development. The Planning Commission determined the existing development *irrevocably commits* the property to a rural residential use, and the Board so finds.

D. Goal 14 Exception Provisions and Analysis

The Goal 14 exception process is found in OAR 660-014-0040 which is titled Establishment of New Urban Development on Undeveloped Rural Lands. It should be noted that the application could be modified to be an AF-10 Agriculture/Forestry Small Holding zone, which would result in the same level of development but would not require an exception to Goal 14. The only disadvantage with this zone is that a 10-acre zone does not really "fit" the 3.15 acre size of the parcel. Nonetheless, the applicant did have the option of modifying the request if it continues to be an issue. The Goal 14 exception criteria and responses are listed below:

1. *(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.*

The subject lot is subject to a committed exception to Goal 3 (and 4) and is not developed or committed to an urban level of development.

2. *(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.*

The reasons to justify an exception to Goal 14 do not include findings that an urban population and urban level of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

3. *(3) To approve an exception under section (2) of this rule, a county must also show:*

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

Yamhill County does not presently have a designated "rural community" so intensification of development in an existing rural community is not an option. A letter from the city of Amity dated July 19, 2007 stated:

The city has been asked to respond to this docket matter.

The subject property is outside of Amity's urban growth boundary. Although the property is adjacent to Amity's UGB it is not anticipated that the subject property will be included in any expansion of Amity's existing UGB.

Amity's city boundary is just to the east of the subject property. Expansion of the UGB to include the subject property is not practicable due to the existence of the railroad line on the eastern edge of the subject property and the natural features to the north and south which together result in access to the property being limited to a private easement and private crossing over the railroad tracks.

The construction of a single family residence on the property should not detract from Amity's ability to provide services to property within city boundaries.

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development 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 on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Nothing in the record shows that the proposed development is limited by the air, water, energy or land resources at the proposed site. Public notice of this request was mailed to surrounding property owners and was published in a newspaper of general circulation in the County. The proposed development of one dwelling on a 3.15 acre parcel should not adversely affect the air, water, energy or land resources of the surrounding area.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

A referral was mailed to the City of Amity and they did not respond to the referral. Approval of the request would not alter the parcelization pattern of the area in that it would not allow the property to be further divided. The only result would be to allow one additional home on a pre-existing parcel. The applicant has indicated that the Amity planner stated that the City is not interested in extending the UGB onto this property and

has no plans to do so in the future. The applicant also indicated that the City has no objection to the rezoning. It appears that the City does not feel the proposed development will detract from the existing city services.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

As stated above, the level of public facilities and services can be made available to the site in a timely and efficient manner.

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

Yamhill County has coordinated with the City of Amity in relation to this request.

D. Goal 12 (Transportation Rule) Provisions and Analysis

1. The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:

- (1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility. This shall be accomplished by either:*
 - (a) Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;*
 - (b) Amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or,*
 - (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - (2) A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) Changes the functional classification of an existing or planned transportation facility;*
 - (b) Changes standards implementing a functional classification system;*
 - (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.*
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2. Regarding (1) and (2), each single-family dwelling generates approximately ten vehicle trips per day. The applicant has indicated that the intention is to extend the existing easement from the northern tax lot (which he owns) to the subject parcel. The Yamhill County Land Division Ordinance allows up to three parcels to be served via a 30-foot wide, nonexclusive easement. While the owner is not subject to this easement requirement, it is a good measure of what level of service the County has determined to be appropriate for certain levels of development. The easement connects with Trade Street (Highway 99W). The proposed residential use is consistent with the identified function, capacity, and level of service of the local roads.

CONCLUSIONS FOR APPROVAL:

1. The request is for a Comprehensive Plan amendment and zone change from Agriculture/Forestry Use, AF-20 to VLDR 2.5, including an exception to Goals 3 and 14.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies. There is an existing demonstrable need for additional residential lots in this area.
3. An exception to Goal 3 is justified because the adjacent small residential lots, railroad tracks, creek, and topography contribute to the area being irrevocably committed to residential use. Farm and forest uses are impracticable in the proposed exception area.
4. The proposed change is consistent with the zone change criteria of Section 1208.02.
5. The proposed change complies with the Transportation Planning Rule.
6. The proposed change is consistent with the Goal 14 exception criteria.

DECISION:

Mr. Richard D. Kelly's request for a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Very Low Density Residential; a zone change from EF-80 Exclusive Farm Use to VLDR 2.5 Very Low Density Residential (taking an exception to Goals 3 and 14) is hereby approved with a limited use overlay zone that contains the following conditions:

1. The principal dwelling shall not be constructed within the Flood Hazard Overlay zone.
2. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County

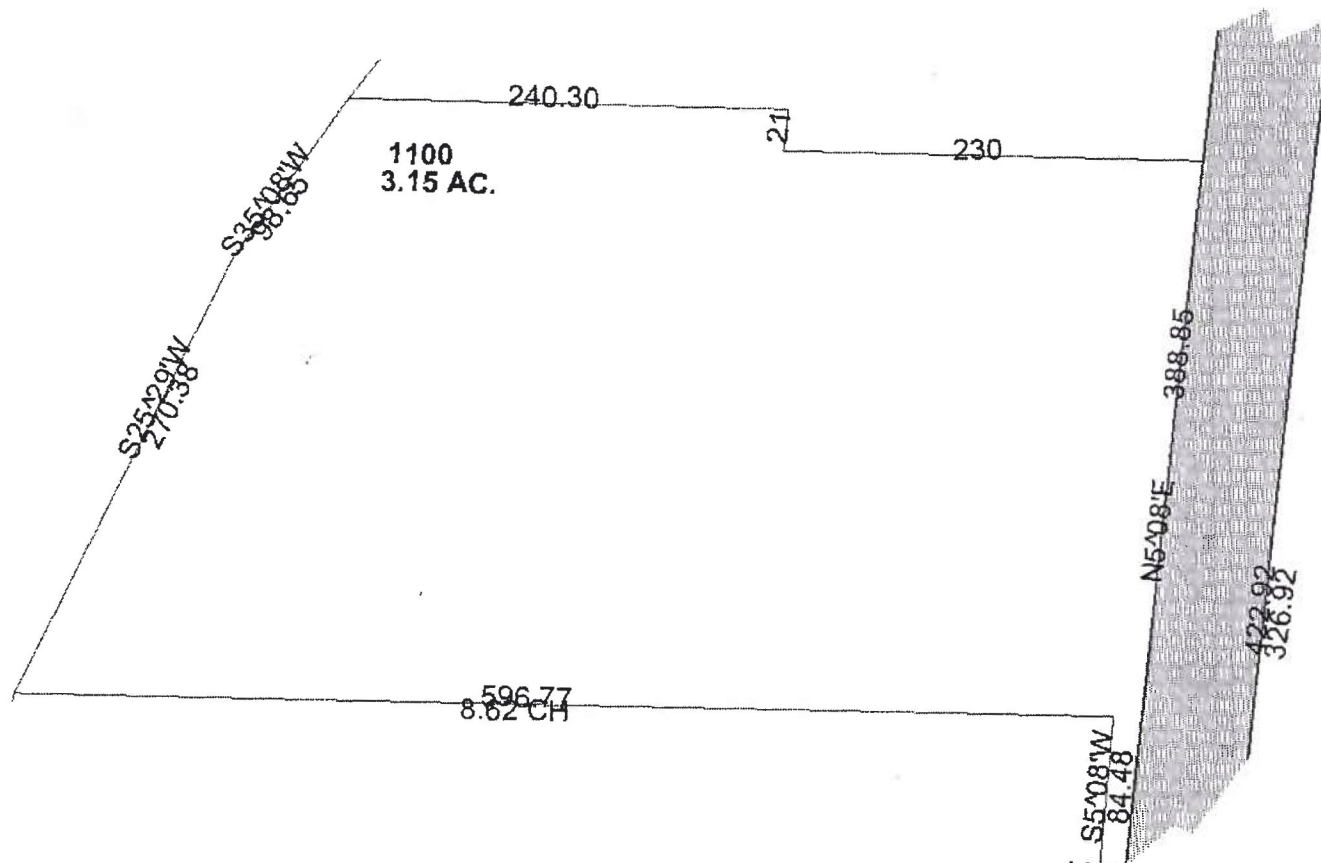
does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

3. Prior to issuance of a residential building permit, the landowner shall enter into a road maintenance agreement with the landowner who shares the easement providing access to the subject parcel.

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B.O. 07-845

EXHIBIT MAP FOR ORDINANCE NO. 815
PLAN AMENDMENT AND ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
September 5, 2007
FOR A COMPREHENSIVE PLAN AMENDMENT FROM
AGRICULTURE/FORESTRY LARGE HOLDING TO VERY LOW DENSITY
RESIDENTIAL AND
TO CHANGE OFFICIAL ZONING MAP FROM
EF-80 EXCLUSIVE FARM USE
TO
VLDR 2.5 VERY LOW DENSITY RESIDENTIAL



CHANGE APPLIES TO TAX LOT 5420CA-1100 DESCRIBED ABOVE

APPROXIMATE SCALE - 1 INCH = 100 FEET

Exhibit B VI
B.O. 07-845