



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

November 2, 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 012-07



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: November 15, 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.

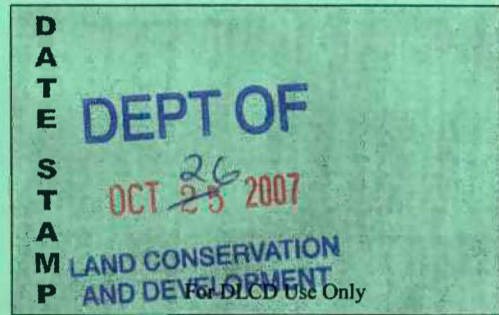
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

<paa> n

FORM 2 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



Jurisdiction: Yamhill County Local file number: PAZ-09-07
Date of Adoption: 10/17/2007 Date Mailed: 10/25/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 6/1/2007

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

To change the comprehensive plan from Ag/Forestry Large Holding to Commercial Forestry; and to change the zoning from EF-20 Exclusive Farm Use to F-80 Commercial Forestry; and to change the zoning from EF-20 Exclusive Farm Use to F-80 Commercial Forestry District

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: AFLH to: CF Commercial Forestry
Zone Map Changed from: EF-20 to: F-80 Commercial Forestry
Location: 27072 SW Beaver Creek Road, Sheridan Acres Involved: _____
Specify Density: Previous: 1/20 ac New: 1/80 ac
Applicable Statewide Planning Goals: 3 and 4
Was an Exception Adopted? YES NO

DLCD File No.: 012-07(16185)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Ken Friday Phone: (503) 434-7516 Extension: _____

Address: 525 NE 4th Street City: McMinnville

Zip Code + 4: 97128- Email Address: fridayk@co.yamhill.or.us

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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to 8-1/2x11 green paper only; or 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 Commercial Forestry;)
& a zone change from EF-20, Exclusive Farm use to F-80, Forestry.) Ordinance 819
Docket PAZ-09-07, Tax Lot 5611-1400, Applicant Kathy Lu,)
and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on October 17, 2007, Commissioners Kathy George, Mary P. Stern and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Kathy Lu applied for Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Commercial Forestry; and a zone change from EF-20, Exclusive Farm use to F-80, Forestry, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed public hearing before the Planning Commission, which unanimously recommended approval; and a public hearing was held before the Board on October 3, 2007. After hearing testimony from the applicant the Board voted 2 to 0 (Commissioner Stern being excused) to approve the application. 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. A map is attached as Exhibit "B".

DONE this 17th day of October, 2007, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk

Kathy George
Chair KATHY GEORGE

By: Anne M. Britt
Deputy Anne Britt

abstain
Commissioner MARY P. STERN

APPROVED AS TO FORM:

R. C.

Leslie A. Lewis
Commissioner LESLIE LEWIS

Rick Sanai, Assistant County Counsel

B.O.07-947

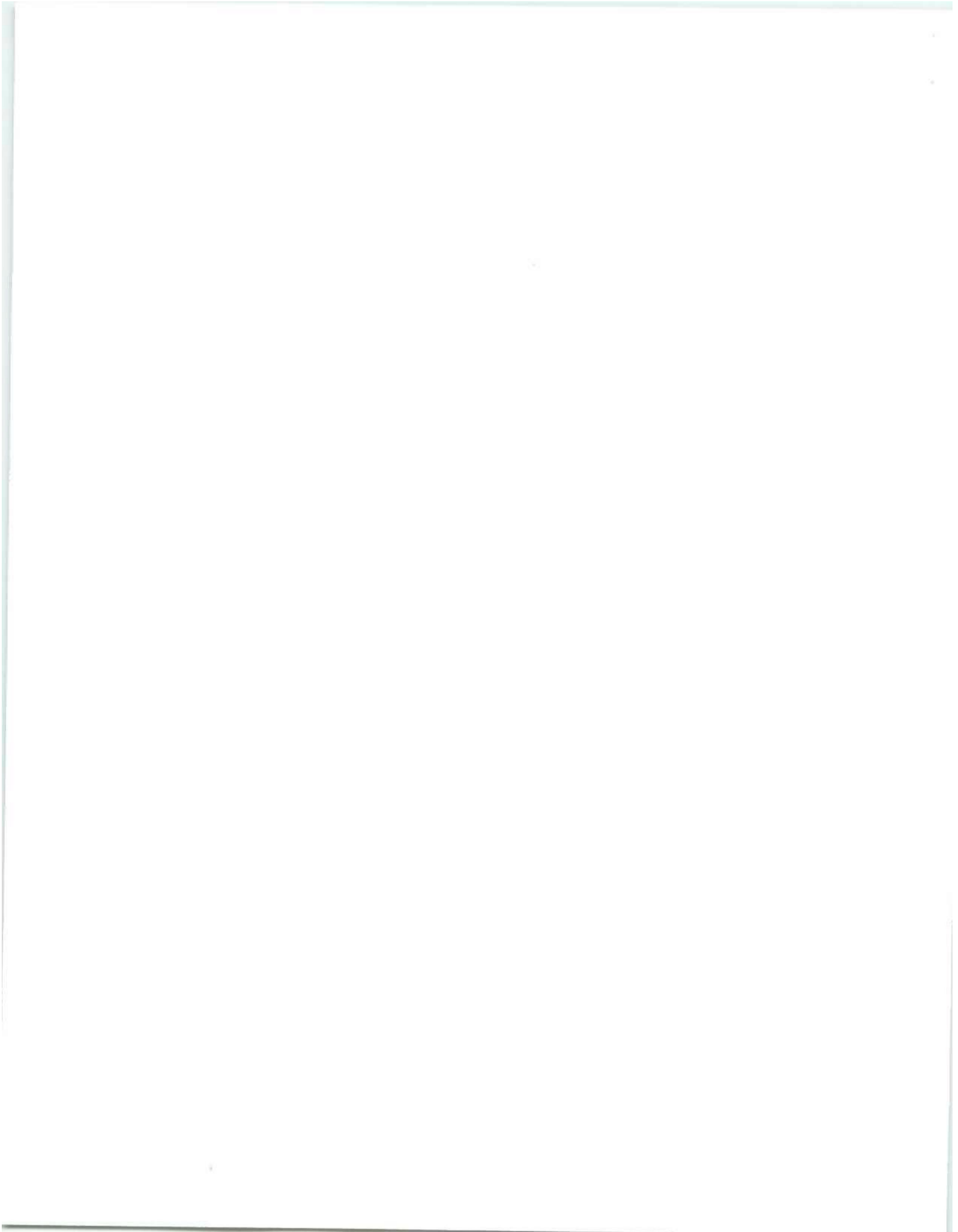


Exhibit "A"

DOCKET NO.: PAZ-09-07

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Commercial Forestry; a zone change from EF-20, Exclusive Farm use to F-80, Forestry.

APPLICANT: Catherine Wright representing Kathy Lu

TAX LOT: 5611-1400

LOCATION: 27072 SW Beaver Creek Road, Sheridan

CRITERIA: Sections 401, 402 and 1208.03 of the Yamhill County Zoning Ordinance. Comprehensive Plan policies may be applicable.

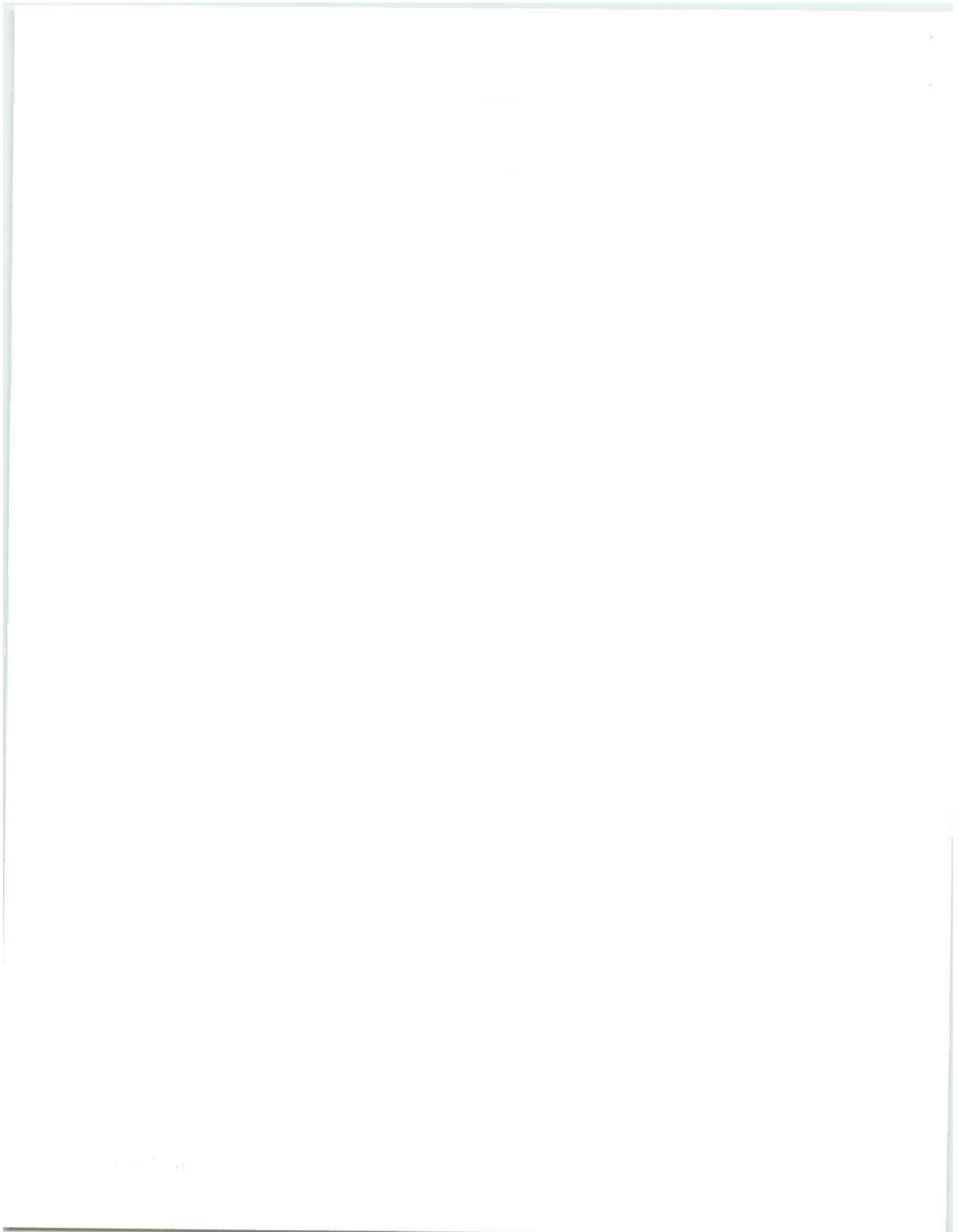
FINDINGS:

A. Background Facts

1. Lot Size: Approximately 10 acres.
2. Access: Beaver Creek Road.
3. On-Site Land Use: The majority of the parcel is an open field. Approximately 2.6 acres of the eastern end of the property is forested. The property contains a barn with a bathroom.
4. Surrounding Zoning and Land Use: The surrounding area to the north, south and east is zoned EF-20. Property to the west, across Beaver Creek Road, is zoned F-80 Commercial Forestry. The existing EF-20 zone is on relatively level land between Beaver Creek and Gopher Valley Road. West of Beaver Creek Road is a steep hillside that is zoned F-80. East of Gopher Valley Road is another steep hillside that is predominantly forested with some clear areas.
5. Water: On-site well.
6. Sewage Disposal: An on-site subsurface system serves the existing barn. A new or expanded septic system would be required for any residential use.
7. Soils: The Yamhill County Soil Survey indicates the predominant soil types are Chehalis, Hazelaire and Chehalem silty clay loam. The majority of the property contains high-value soils. The soils are capable of producing 40 to 145 cubic feet per acre of commercial tree species.
8. Fire Protection: Sheridan Rural Fire District.
9. Taxes: The property is not presently receiving farm or forest deferral.
10. Previous Actions: There were no previous land use actions. A site evaluation for a septic system was approved in 1998. A building permit for an agricultural use only building was obtained in October, 2000. In 2003 a septic system was installed for the barn. In 2002, after repeated requests for construction of a dwelling on the property, the Planning Director wrote a letter to the previous owner providing options for rezoning the property.

B. Ordinance Provisions and Analysis

Exhibit "A"
B.O.07-947



1. The approval of the requested zone change is based on the Board finding the request complies with the review criteria found in Section 1208.03 of the Yamhill County Zoning Ordinance, as follows:

Review Criteria for Amendments to or within Exclusive Farm Use and Agricultural/Forestry Zones

A quasi-judicial zone change to (1) amend the designation of land from Exclusive Farm Use, Agriculture/Forestry, or Forest to another of these zones, or (2) change the minimum lot size of land designated Exclusive Farm Use or Agriculture/Forestry, may be authorized, pursuant to Subsection 1208.01, provided that the request satisfies all applicable requirements of this ordinance, and also provided that the applicant demonstrates compliance with the following criteria:

A. *The proposed amendment shall comply with the goals, policies, and other applicable provisions of the comprehensive plan.*

B. *The proposed designation shall be appropriate for the existing or intended use of the property.*

C. *The proposed amendment shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land.*

D. *For proposed changes within or to an Exclusive Farm Use designation, the new minimum lot size shall be appropriate to maintain the existing commercial agricultural enterprise in the area.*

E. *For proposed changes within or to an Agriculture/Forestry designation, the new minimum lot size shall be shown to assure:*

1. *The opportunity for economically efficient forest and agriculture practices typically occurring in the area, and*

and
2. *The opportunity for the continuous growing and harvesting of forest tree species;*

3. *The conservation of other forest values found on forest lands.*

F. *Any amendment that would change the zone map designation to reduce the minimum lot size on property within an Exclusive Farm Use or Agriculture/Forestry district shall not be granted final approval by Yamhill county until the amendment has been considered and approved by the Land Conservation and Development Commission pursuant to ORS 215.780(2). The following rules shall apply:*

1. *Conditional approval. Following receipt of an application for a zone change as otherwise provided by this ordinance, the county shall determine whether to grant or deny the application in accordance with criteria established in this section 1208.03. If the application is granted, the county shall enter an order of conditional approval, subject to final approval by the Land Conservation and Development Commission.*

2. *Referral of Order of Conditional Approval. After conditional approval by Yamhill County, the application, county findings, order of conditional approval and a request for Commission action shall be referred to the Department of Land Conservation and Development.*



3. *Final Approval. An amendment conditionally approved by Yamhill County shall not take effect until the county adopts an order or ordinance authorizing final approval after receipt of written confirmation of the county's conditional approval by the Land Conservation and Development Commission. [Amended by Ord. 618 12/30/96]*

The above criteria are addressed in Findings B.2 through B.5 below.

2. Regarding criterion (A), applicable goals from the Yamhill County Comprehensive Land Use Plan, Section II.A.1, Goal reads:

To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conservation of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

The property is not receiving any deferral and, while the property contains a mixture of grass and trees, the application indicates that the property is not being used for any commercial purposes. The proposed zone, F-80, would allow forest uses on the subject parcel. The applicant is not proposing an urban use; the minimum lot size is to be increased from 20 to 80 acres.

Section II.A.2, Goal reads:

To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the county plan map.

According to the Yamhill County Soil Survey, the parcels exhibit Class I and III soils. The timber yields from the subject parcel soils vary from 40 to 145 cubic feet per acre of commercial tree species. The requested zone change will continue to preserve the County's soil resources for their suitability for forest use.

Section II.B.1, Goal reads:

To conserve and to manage efficiently the county's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock, habitat for fish and wildlife, protection of forest soils and watershed, and preservation of recreational opportunities.

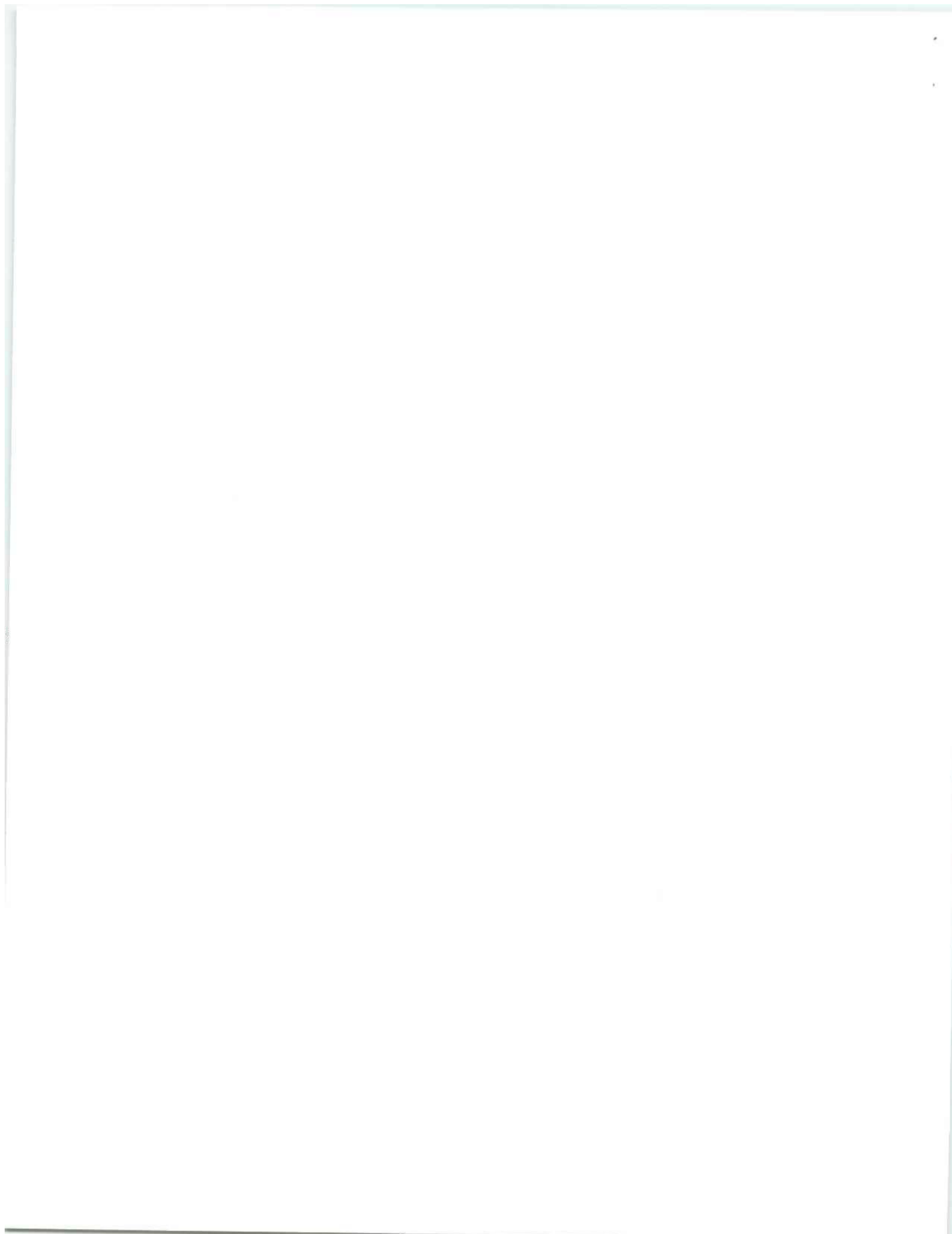
The F-80 zone allows both forestry uses and farm uses. The proposed zone change would conserve the county's forest resources that currently exist on the property and in the area while allowing farm uses.

Section II.B.1, Policy f. reads:

Yamhill County shall adopt provisions in the zoning ordinance that will be used as standards for review of requests to change the minimum lot size within areas designated Agriculture/Forestry Large Holding on the Comprehensive Plan map, or from a farm, forest, or agriculture/forestry designation to a different resource classification.

The standards noted in the above policy are found in 1208.03 which are addressed in this report.

3. Regarding criterion (B), as mentioned above, the subject parcel is not being used for any commercial purpose. The applicant's representative has submitted arguments that the plan amendment and zone change from an exclusive farm zone to a forestry zone would more accurately reflect the current use



Docket PAZ-09-07 (Catherine Wright representing Kathy Lu)

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of the property since a few acres does grow trees.

4. Regarding criterion (C), the subject parcel is contiguous with several hundred acres of property across Beaver Creek Road zoned F-80. The resulting area of F-80 zone would be well over the required 160 contiguous acres, therefore, the request is consistent with criterion (C).

5. Regarding criteria (D), (E) and (F), these criteria are not applicable since the request does not include reducing the minimum lot size on the property.

CONCLUSIONS

1. The request is for approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Commercial Forestry; a zone change from EF-20, Exclusive Farm use to F-80, Forestry. The total area proposed to be rezoned is approximately 10 acres.

2. The proposed designation is appropriate for the existing and intended use of the property.

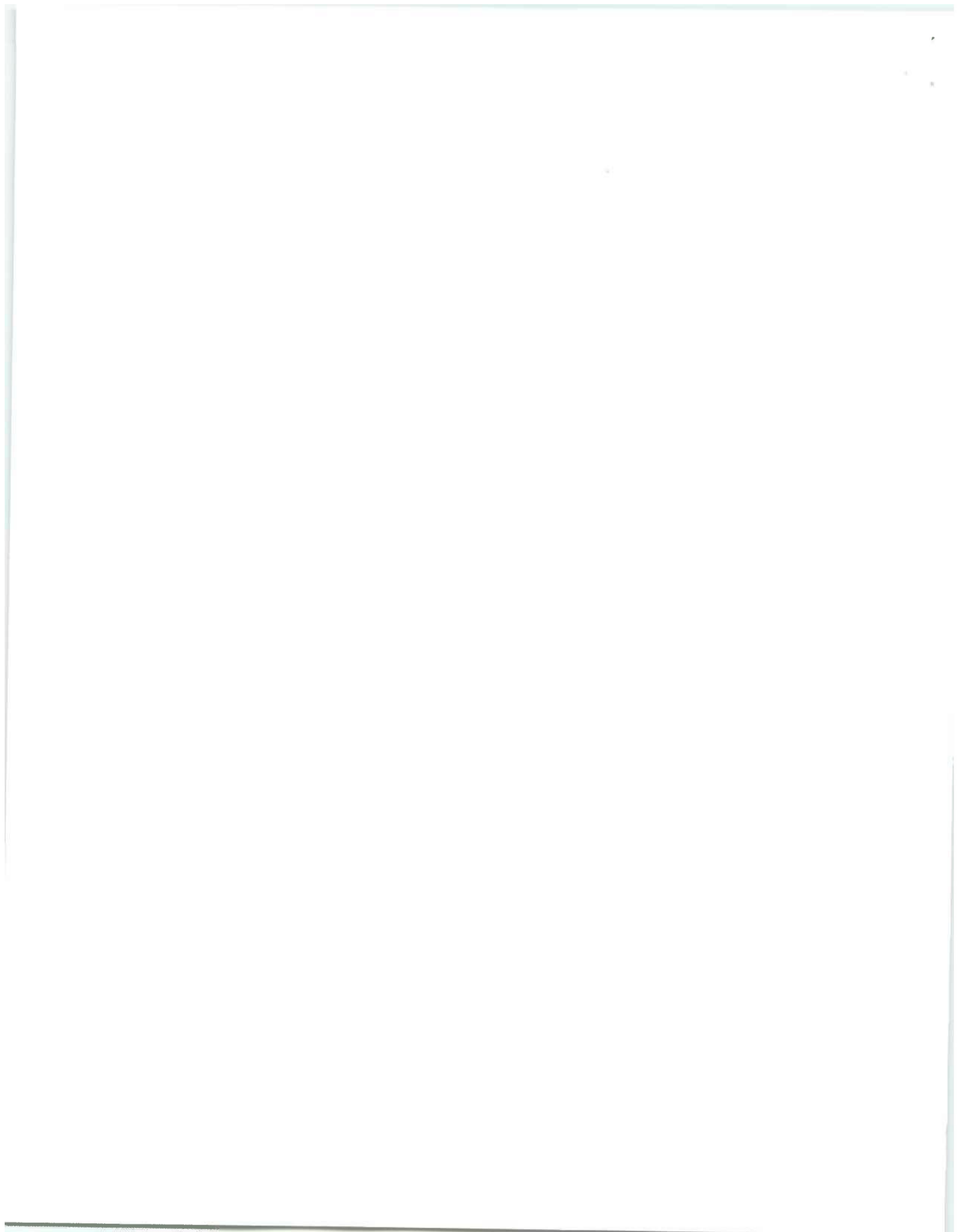
3. The request complies with the criteria listed in Section 1208.03 of the Yamhill County Zoning Ordinance and is consistent with the applicable goals found in Yamhill County's Comprehensive Plan.

DECISION:

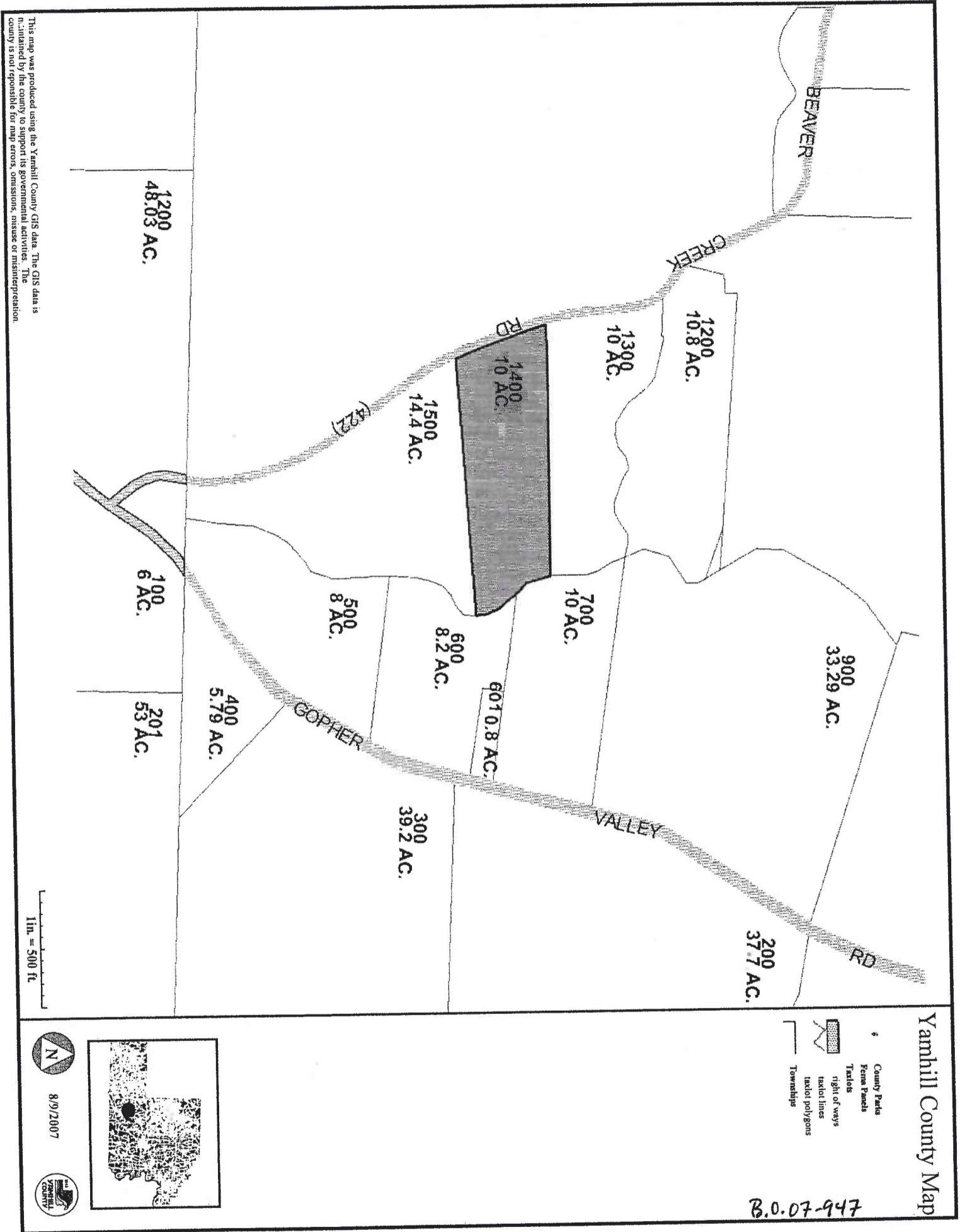
Based on the above findings and conclusions, the request by Catherine Wright representing Kathy Lu for a plan amendment from Agriculture/Forestry Large Holding to Commercial Forestry and a zone change from EF-20, Exclusive Farm use to F-80, Forestry on Tax Lots 5611-1400 is hereby approved.

Ord. 819 Kathy Lu

B0-07-947

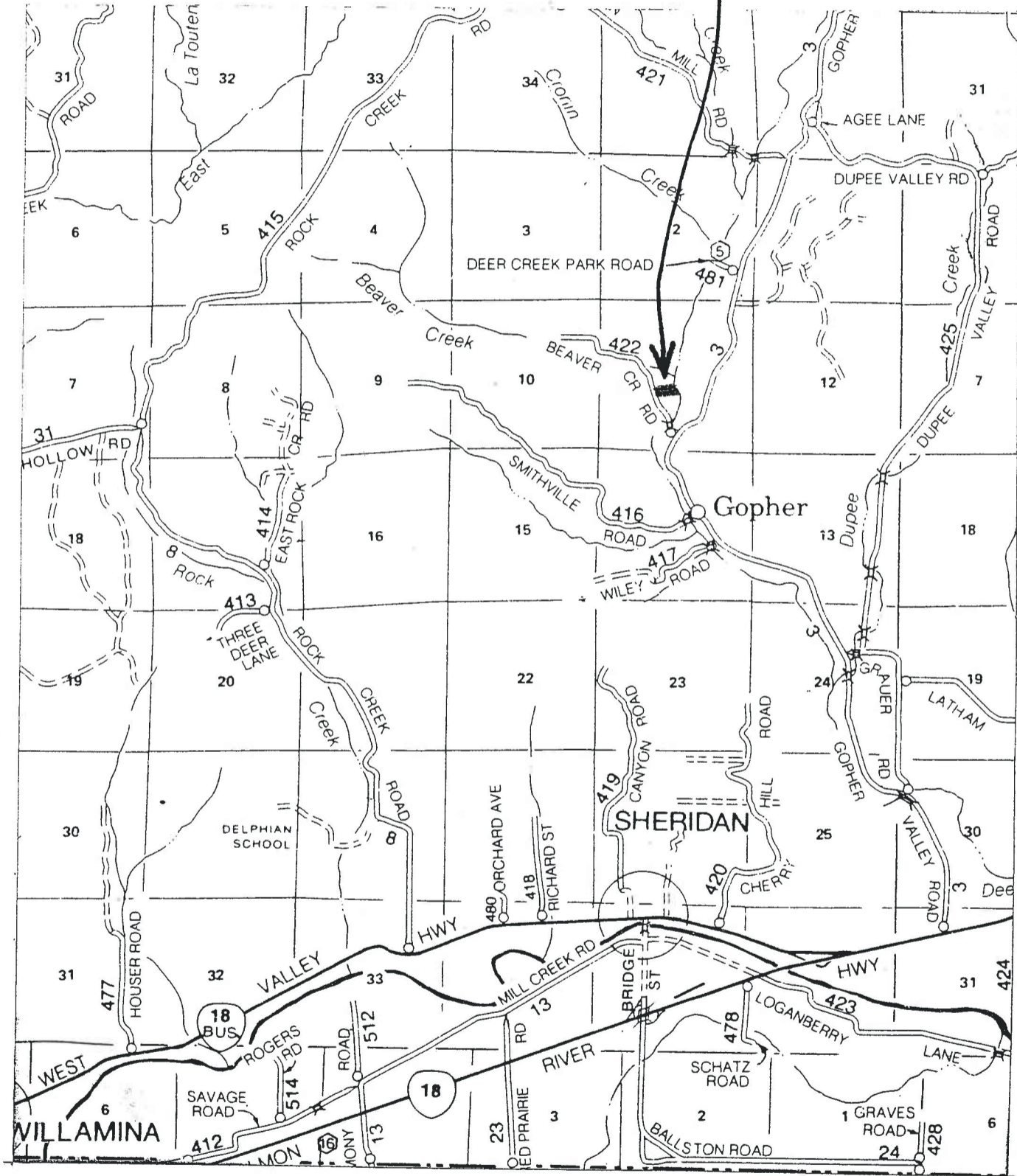


ORDINANCE 819 EXHIBIT "B"



VICINITY MAP

LOCATION OF PROPERTY



B.O.07-947