



# 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

### NOTICE OF ADOPTED AMENDMENT

June 19, 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 005-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 5, 2007**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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.

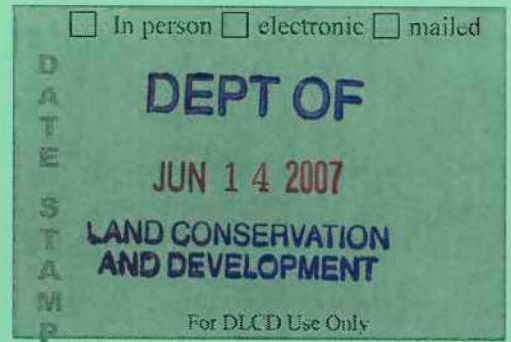
**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative  
Stephanie Armstrong, Yamhill County

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# 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: **Z-03-07**

Date of Adoption: **5/23/2007**

Date Mailed: **6/13/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/19/2007

- 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".  
Zone change from EF-20, Exclusive Farm use to AF-40, Agriculture/Forestry.

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

Plan Map Changed from:

to:

Zone Map Changed from: **EF-20**

to: **AF-40**

Location: **3S 5W Section 23 Tax Lot 900**

Acres Involved: **24**

Specify Density: Previous: **1dwel/20 acres**

New: **1 dwel/40 acres**

Applicable statewide planning goals:

- |                          |                          |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                 | <b>2</b>                 | <b>3</b>                            | <b>4</b>                            | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 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 file No. 005-07 (15973)

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

Yamhill Soil and Water Conservation

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Local Contact: **Stephanie Armstrong**

Phone: (503) 434-7516 Extension: 3635

Address: 525 NE Fourth St.

Fax Number: 503-434-7544

City: McMinnville

Zip: 97128-

E-mail Address: [armstrongs@co.yamhill.or.us](mailto:armstrongs@co.yamhill.or.us)

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## 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](http://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](mailto: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](mailto: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 Zone Change from EF-20 Exclusive )  
Farm Use to AF-40 Agriculture Forestry for a 24.8 Acre Parcel, )  
Tax Lot 3523-900, Docket no. Z-03-07, Applicant Marcel van der ) Ordinance 809  
Sluys, & Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on May 23, 2007, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

IT APPEARING TO THE BOARD that Marcel van der Sluys applied to the Yamhill County Department of Planning (Planning Docket Z-03-07) for a zone change from EF-20 Exclusive Farm Use to AF-40 Agriculture Forestry Use, and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Commission at a duly noticed public hearing on May 3, 2007, after which the Commission voted 8-0 to recommend approving the application, and no-one has appealed that approval. 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 23<sup>rd</sup> day of May, 2007, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN CO  
County Clerk

By:  
Deputy



APPROVED AS TO FORM:

Rick Sanai  
Rick Sanai, Assistant County Counsel

Kathy George  
Chair KATHY GEORGE

Mary P. Stern  
Commissioner MARY P. STERN

Leslie Lewis  
Commissioner LESLIE LEWIS

- REQUEST:** Zone change from EF-20 Exclusive Farm Use to AF-40 Agriculture Forestry Use.
- APPLICANT:** Catherine A. Wright representing Marcel van der Sluys
- TAX LOTS:** 3523-900
- LOCATION:** Northeast of the intersection of Meadow Lake Road and Panther Creek Road, Carlton
- CRITERIA:** Sections 402, 403 and 1208.04 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan.

A. Background Facts

1. Lot Size: 24.8 acres
2. Access: Meadow Lake Road.
3. On-Site Land Use: Currently, undeveloped with most of the parcel forested.
4. Surrounding Zoning: Property to the east and west is zoned EF-20 and property to the south is zoned EF-80. The parcels to the north are zoned AF-40.
5. Surrounding Land Use: The land to the north is predominantly forested. Land to the south, east and west appears to exhibit a mixture of farm and forestry uses.
6. Water: Proposed on-site well.
7. Sewage Disposal: An on-site septic system would be required.
8. Soils: The Yamhill County Soil Survey indicates approximately 43% of the soil on the subject parcel is Hazelair (HcB) which is rated as Class III non-high value soils. Approximately 28% is Willakenzie (WeD) which is rated as Class III, high-value farmland and approximately 12% is Willakenzie (WeE) which is rated as Class IV, high-value farmland.
9. Fire Protection: Carlton Rural Fire District.
10. Taxes: Market value.
11. Other Factors: Until late 1993 the property was zoned AF-20. In December of 1993 the lot was rezoned EF-20, at the requirement of the State following the passage of HB 3661.

B. Ordinance Provisions and Analysis

1. The requested zone change complies with the review criteria found in Section 1208.04 of the Yamhill County Zoning Ordinance, as follows:

**Review Criteria for Amendments from Exclusive Farm Use to Agricultural/Forestry Zones**

*Certain properties that were zoned Agriculture/Forestry prior to December 29, 1993 were rezoned to Exclusive Farm Use as part of Periodic Review. (The rezoning became effective on February 14, 1997.) When the Exclusive Farm Use designation does not adequately reflect the mixed agricultural and forest use of the property, a quasi-judicial zone map change back to Agriculture/Forestry may be authorized, pursuant to Subsection 1208.01, and provided that the applicant demonstrates compliance with the following:*

- A. *The area to be rezoned consists primarily of foothill and ridgetop holdings above the flat terrace and valley floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range.*
- B. *At least 50% of each parcel that is proposed to be rezoned is forested.*
- C. *At least 50% of each parcel that is proposed to be rezoned was designated Agriculture/Forestry prior to December 29, 1993.*
- D. *The area being rezoned contains such a mixture of agricultural and forest uses that neither Goal 3 nor Goal 4 can be applied alone.*
- E. *The proposed amendment shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land.*
- F. *Any amendment that would reduce the minimum lot size complies with the requirements of Section 1208.03(F).*

The above criteria are addressed in Findings B.2 through B.7 below.

2. Regarding the location of the parcel as specified in criterion (A) above, the elevation of the subject parcel ranges from approximately 340 feet in the northwest corner to the lowest point of approximately 220 feet at the southern end of the parcel. The topography is primarily foothills and is above the flat terrace and valley floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range. The request meets this criterion.
3. Regarding criterion (B) above, the 1992 aerial photograph of the parcel shows that approximately 52.4% of the parcel is forested and somewhat more forestation is shown in the

2005 aerial photo. The parcel also contains some open areas. The purpose section of the Agriculture/Forestry District states in part:

*The purpose of the Agriculture/Forestry District is to identify and protect lands designated as Agriculture/Forestry Large Holding on the Comprehensive Plan, that are a mixture of agricultural and forest management operations, and other uses which are compatible with such operations.*

Due to the mixed nature of the use of the property it appears that the requested change would be appropriate. The request meets this criterion.

4. Regarding criterion (C), the Official 1980 County Zoning Map, which was valid until December 29, 1993, shows the subject parcel was zoned AF-20 Agriculture/Forestry use (See attached map). The request meets this criterion.
5. Regarding criterion (D) the lot contains Class III and IV soils and is, therefore, considered agricultural land pursuant to Goal 3; however, the parcel also contains at least 50% of forested area. The majority of the soils are capable of producing 40 to 145 cubic feet of wood fiber per acre per year. Therefore, the lot is not exclusively suitable for Goal 3 use or Goal 4 use.
6. Regarding criterion (E), the request will result in at least 160 contiguous acres of the requested designation of AF-40.
7. Criterion (F) does not apply since the approval of the request would not reduce the minimum lot size on the property. The applicant wishes to increase the minimum lot size to 40 acres.

#### **CONCLUSIONS and DECISION**

1. The request is for a zone change from EF-20 Exclusive Farm Use to AF-40 Agriculture Forestry Use. Total area proposed to be rezoned is 24.8 acres.
2. The zone change is appropriate to reflect the mixed uses on the property.
3. The request complies with the criteria listed in Section 1208.04 of the Yamhill County Zoning Ordinance.
4. The proposed designation is appropriate for the intended use of the property.
5. The proposed change will continue to allow the opportunity for growing and harvesting trees.

Based on the above findings and conclusions, the request by Catherine Wright representing Marcel van der Sluys, for a zone change from EF-20 Exclusive Farm Use to AF-40 Agriculture Forestry Use on Tax Lot 3523-900, is hereby approved.



# VICINITY MAP

## LOCATION OF PROPERTY

