



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

February 26, 2008

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 017-07



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: March 11, 2008

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
Stephanie Armstrong, Yamhill County

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Notice of Adoption

In person electronic mailed

DEPT OF

FEB 21 2008

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

**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-12-07**

Date of Adoption: **2/20/2008**

Date Mailed: **2/21/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 11/2/2007

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".

Plan amendment from CF, Commercial Forestry to AFLH, Agriculture/Forestry Large Holding and a zone change from F-80 to AF-80.

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

Plan Map Changed from: **CF**

to: **AFLH**

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

to: **AF-80**

Location: **North of Rex Brown Rd & Panther Creek Rd**

Acres Involved: **203**

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

New: **1/80**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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

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 Commercial Forestry to Agriculture/Forestry Large Holding;)
a zone change from F-80 Forestry to AF-80 Agriculture/Forestry,) Ordinance 824
Tax Lots 3521-100 and 1800, 3516-1400 and 1600, Applicant La)
Minora Properties, Inc., Docket no. PAZ-12-07, and Declaring an)
Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on February 20, 2008, Commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that La Minora Properties, Inc requested approval of a Comprehensive Plan amendment from Commercial Forestry to Agriculture/Forestry Large Holding; a zone change from F-80, Forestry to AF-80, Agriculture/Forestry, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed public hearing before the Planning Commission January 3, 2008, which voted unanimously for approval, and the matter was heard at a duly noticed public hearing February 6, 2008 before the Board, no opponents appearing at the board hearing, and the Board voted unanimously for approval. NOW, THEREFORE,

rs

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 appended as Exhibit "B".

DONE this 20th day of February, 2008, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk



Mary P. Stern

MARY P. STERN

By: *Anne Britt*
Deputy Anne Britt
Leslie A. Lewis

LESLIE LEWIS

APPROVED AS TO FORM
Kathy George

Commissioner KATHY GEORGE

Rick Sanai

Rick Sanai, Assistant County Counsel

Exhibit "A" Findings for Approval

DOCKET NO.: PAZ-12-07

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

APPLICANT: La Minora Properties, Inc.

TAX LOT: 3521-100 and 1800, 3516-1400 and 1600

LOCATION: North of the intersection of Panther Creek Road and Rex Brown Road

CRITERIA: Sections 401, 403 and 1208.03 of the Yamhill County Zoning Ordinance. Comprehensive Plan policies may be applicable.

FINDINGS:

A. Background Facts

1. Tract Size: Approximately 203 acres.
2. Access: Panther Creek Road.
3. On-Site Land Use: The majority of the parcel is currently in mature Douglas Fir forest.
4. Surrounding Zoning and Land Use: The surrounding area is predominantly forested with a mixture of zones that include F-80, EF-20, AF-20, AF-40, and EF-80.
5. Water: Applicant has indicated either a well or an impoundment.
6. Sewage Disposal: None.
7. Soils: The Yamhill County Soil Survey indicates the predominant soil types for all four parcels are Jory (JrC, JrD, JRE), prime and high-value farmland. The remainder of the parcels are composed of Peavine (PeD, PCD) and Nekia (NcD), non-high value farmland. Timber yield for these soil types are 130 cubic feet per acre per year and greater.
8. Fire Protection: Yamhill and Carlton Rural Fire Districts.
9. Taxes: All four lots are receiving forest deferral.

B. Ordinance Provisions and Analysis

1. The approval of this zone change is based on the Board's conclusion that 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*
 - 2. The opportunity for the continuous growing and harvesting of forest tree species; and*
 - 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.2, Goal reads:

To conserve Yamhill County 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 II and III soils. The timber yields from the subject parcels vary from 130 to 155 cubic feet per acre of commercial tree species. The requested zone change will encourage both forestry and agricultural uses and therefore will continue to preserve the County's soil resources for their suitability for forest uses as well as farm uses.

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 AF-80 zone allows both forestry uses and farm uses. The proposed zone change will conserve the county's forest resources that currently exist on the properties and in the area, while allowing farm uses and the option for commercial activities in conjunction with farm uses that the

F-80 zone does not allow. Evidence introduced at the hearing shows that the proposed use will maintain the forest use in certain areas. The proposed use will also provide wildlife corridors to permit the passage of wildlife. Evidence introduced at the hearing also demonstrated that streams flowing through the area would be protected under the proposed use. Evidence introduced at the hearing indicated that the soil is one of the greatest assets in a vineyard and it is the best interest of a vineyard owner to protect the soil by preventing erosion.

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

Yamhill County recognizes that areas of the county are characterized by such a mixture of farm and forest use that the agricultural lands and forest lands goals of this Plan are both applicable. Farm and forest resources within these areas shall be protected through mixed-use zoning that recognizes both types of use. Any proposal to change the zoning designation of a parcel from a farm or forest classification to a mixed-use zone shall include a demonstration that the use of the parcel is such a mixture that neither the farm nor forest land goals can be exclusively applied.

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 policies, Yamhill County Comprehensive Plan sections II.B.1 e. and f., are found in 1208.03 which are addressed in detail in Sections 2, 3, and 4 of this report.

3. Regarding the criterion found in YCZO 1208.03 (B), the proposed zone change is appropriate considering the parcel is intended to be used for a commercial vineyard where appropriate and the remainder of the parcel would be used for continued timber production. The proposed change is appropriate because YCZO 403.01 provides:

"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. Properties in the Agriculture/Forestry District are primarily foothill and ridgetop holdings above the flat terrace and valley-floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range."

This property falls squarely within the definition in that its elevations are between approximately 337 and

680 feet. The current use is forest land, and the intended use is mixed forest and agriculture.¹ The surrounding uses and zoning are a similar mixture of uses.

4. Regarding the criterion found in YCZO 1208.03(C), the subject parcels themselves make up approximately 203 acres of the proposed designation. The resulting area of AF-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 Commercial Forestry to Agriculture/Forestry Large Holding; a zone change from F-80, Forestry to AF-80, Agriculture/Forestry. The total area proposed to be rezoned is approximately 203 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 La Minora Properties, Inc. for a plan amendment from Commercial Forestry to Agriculture/Forestry Large Holding and a zone change from F-80, Forestry to AF-80, Agriculture/Forestry on Tax Lots 3521-100 and 1800 and 3516-1400 and 1600 is hereby approved.

¹ Vineyards are a permitted use in a forest zone, but an onsite winery would only be permitted in an AF zone. YCZO 403.02(C).

EXHIBIT MAP FOR ORDINANCE NO. 824
PLAN AMENDMENT AND ZONE CHANGE
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS

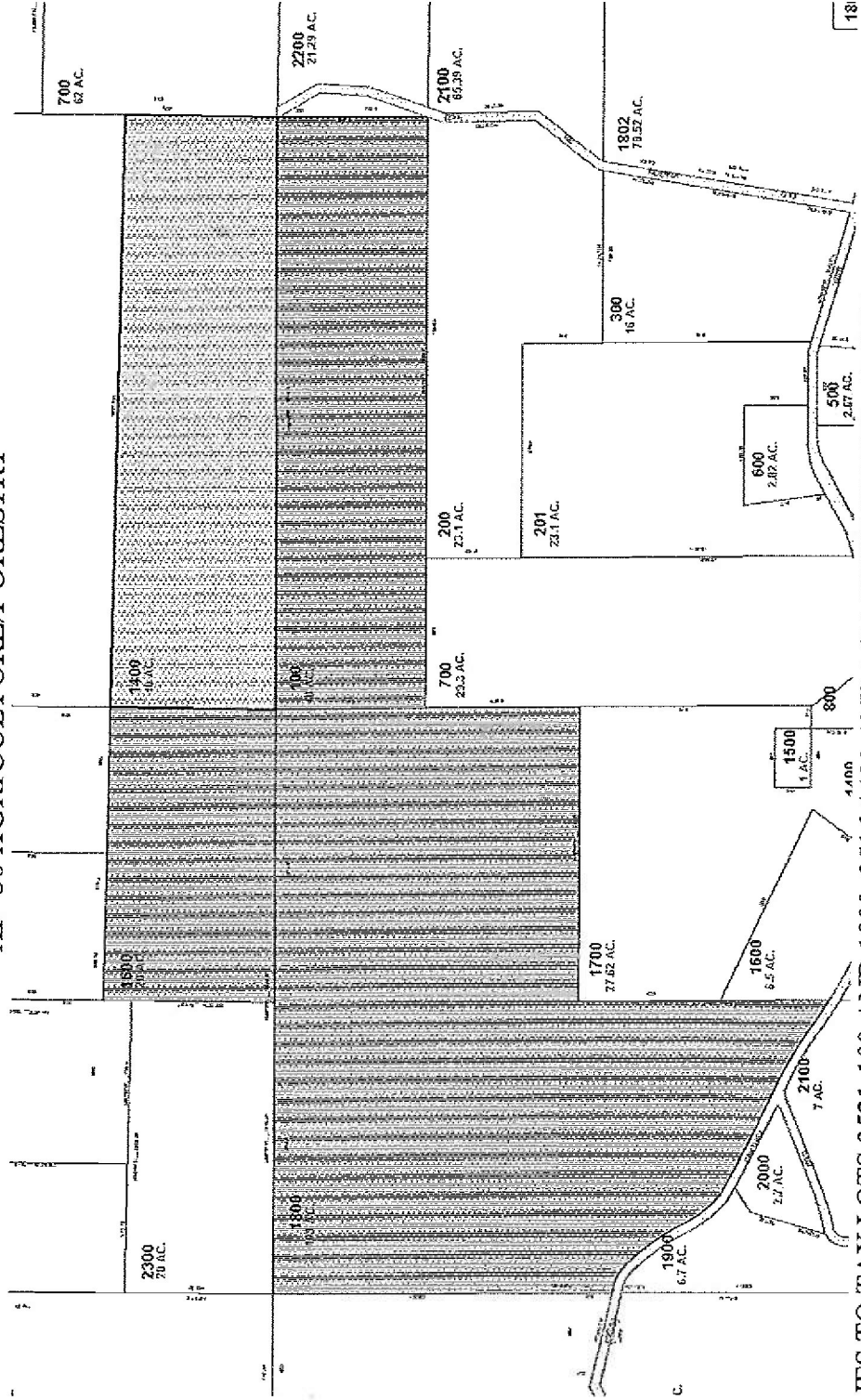
February 20, 2008

FOR A COMPREHENSIVE PLAN AMENDMENT FROM
COMMERCIAL FORESTRY TO AGRICULTURE/FORESTRY LARGE HOLDING AND
TO CHANGE OFFICIAL ZONING MAP FROM

F-80 FORESTRY

TO

AF-80 AGRICULTURE/FORESTRY



CHANGE APPLIES TO TAX LOTS 3521-100 AND 1800, 3516-1400 AND 1600 HIGHLIGHTED ABOVE

APPROXIMATE SCALE - 1 INCH = 600 FEET