



Oregon

Theodore R. Kubongski, 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

1/6/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Yamhill County Plan Amendment
DLCD File Number 005-09

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: Tuesday, January 19, 2010

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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Ken Friday, Yamhill County
Jon Jinings, DLCD Community Services Specialist
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA

Notice of Adoption

In person electronic mailed

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

RECEIVED
DEC 30 2009

DEPT OF
LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: **Yamhill County**

Local file number: **Z-01-09**

Date of Adoption: **12/21/09**

Date Mailed: **12/29/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/2009

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 an 80 acre minimum lot size to a 40 acre minimum.

Does the Adoption differ from proposal? **Yes**

The property owner will be recording a deed restriction which will prohibit the establishment of a dwelling on the resulting 51 acre property.

Plan Map Changed from:

to:

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

to: **EF-40 Exclusive Farm use**

Location: **2808 NE Wynooski Rd. , Newberg**

Acres Involved: **51**

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

New: **No dwellings allowed**

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

DLCD file No. _____

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

City of Newberg

Local Contact: **Ken Friday**

Phone: (503) 434-7516 Extension:

Address: 247 NW Ash Street

Fax Number: - -

City: McMinnville

Zip: 97128

E-mail 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 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, or by emailing larry.french@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 larry.french@state.or.us - **Attention: Plan Amendment Specialist**.



BOARD OF COUNTY COMMISSIONERS

KATHY GEORGE • LESLIE LEWIS • MARY P. STERN

535 NE Fifth Street • McMinnville, OR 97128-4523

(503) 434-7501 • Fax (503) 434-7553

TTY (800) 735-2900 • www.co.yamhill.or.us

December 22, 2009

Laurent Montalieu
17100 Woodland Loop
Yamhill, OR 97148

Charles Harrell
Attorney at Law
3 Centerpointe Drive, Suite 250
Lake Oswego, OR 97055

RE: Planning Docket Z-01-09
Ordinance 850

Dear Mr. Montalieu and Mr. Harrell:

At the December 21, 2009 formal session of the Board of Commissioners, the Board adopted Ordinance 850 approving the request for a zone change on Tax Lot 3401-0100.

Findings in support of the Board's decision are contained in Exhibit "A" of Ordinance 850, a copy of which is enclosed. Copies may also be reviewed in the Planning Department during normal business hours. The Planning Department is located at 525 NE Fourth Street, McMinnville, Oregon.

This action constitutes a final action by Yamhill County on the application, but you should be aware that a final land use decision by a local government may be appealed to the Land Use Board of Appeals in most circumstances. An appeal must be filed within 21 days of the date the decision became final, which was December 21, 2009. A successful appeal could revoke this approval.

If you have any questions regarding the county's action, you may contact me at the phone number listed above or the Planning Department (434-7516).

Sincerely,

Leslie Lewis, Chair
Board of Commissioners

LL-CW:cw

Enclosure

cc: Planning Department

Interested parties per attached list (w/out attachment)

Notice of Decision
Planning Docket Z-01-09
Applicant: Laurent Montalieu

Joe Myers
11950 SE Loop Road
Dayton, OR 97114

Ilse Perse, President
Friends of Yamhill County
P O Box 1083
McMinnville, OR 97128

Merilyn Reeves
Friends of Yamhill County
P O Box 1083
McMinnville, OR 97128

DLCD
Attn: Gary Fish
635 Capitol St NE, Suite 150
Salem, OR 97301-2540

DLCD
Attn: Richard Whitman
635 Capitol St NE, Suite 150
Salem, OR 97301-2540

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 the Quasi-Judicial Zone Map Change from)
Exclusive Farm Use EF-80 to Exclusive Farm Use EF-40)
On a 51 Acre Portion of Yamhill County Tax Lot R3401-0100,) ORDINANCE 850
Located At 17100 NE Woodland Loop Road, Yamhill,)
Applicant Laurent Montalieu, Docket No. Z-01-09,)
and Declaring an Emergency.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of Yamhill County business on December 21, 2009, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

IT APPEARING TO THE BOARD that Laurent Montalieu initially submitted a Quasi-Judicial Zone Change Application from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm Use to Yamhill County Department of Planning (Planning Docket No. Z-01-09) to change the zoning for 51 acres from Exclusive Farm Use EF-80 to Exclusive Farm Use EF-40 for Yamhill County Tax Lot R3401-0100, located on NE Woodland Loop Road in Yamhill County (the "Zone Change Application"); and

IT APPEARING TO THE BOARD that the Zone Change Application was approved by the Yamhill County Planning Commission on July 9, 2009.

IT THEN APPEARING TO THE BOARD that the Zone Change Application was submitted to the Oregon Land Conservation and Development Commission for review and approval as required by Yamhill County Ordinance; Oregon Land Conservation and Development Commission conditionally approving and remanding the Zone Change Application to the Yamhill County Board of Commissioners to adopt additional findings of compliance with ORS 215.243, ORS 527.630 and the Statewide Planning Goals (LCDC Review Order 09-Remand-001774).

WHEREAS, the Board provided due notice and held a public hearing on the remanded issues for the Zone Change Application regarding Yamhill County Zoning Ordinance Sections 402 and 1208.03, ORS 215.243, ORS 527.630, the Yamhill County Comprehensive Plan Goals and Policies and the Statewide Planning Goals on December 9, 2009 and accepted written and oral testimony regarding those limited issues on that date. The Board received written comments and evidence and oral statements in favor of the Zone Change Application from Laurent Montalieu and his attorney Charles Harrell as well as written comments and evidence and oral statements in either in opposition or of a neutral position to the Zone Change Application from

Merilyn Reeves and Ilsa Pierce on behalf of Friends of Yamhill County. After due consideration of the Zone Change Application and the testimony and evidence presented, the Board tentatively voted 2 to 0 in favor of granting preliminary approval of the Zone Change Application, incorporating and adopting the findings attached hereto as noted in Exhibit A, NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the Zone Change Application (Planning Docket No. Z-01-09) is approved as detailed in the Findings for Approval attached as Exhibit "A" hereto 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 of the affected area is appended as Exhibit "B". A map generally describing the approved subdivision is appended as Exhibit "C".

DONE this 21st day of December, 2009, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS:

REBEKAH STERN DOLL
County Clerk

abstain

Chair:

LESLIE LEWIS

By: *Anne Britt*
Deputy Anne Britt



Kathy George
Commissioner

KATHY GEORGE

Mary P Stern
Commissioner

Commissioner:

MARY P. STERN

APPROVED AS TO FORM:

Rick Sanai

Rick Sanai
Assistant County Counsel

FINDINGS AND CONCLUSIONS FOR ORDINANCE 850

Exhibit "A"

The following findings of fact and conclusions of law are hereby adopted, and are based on substantial evidence and testimony in the record in this matter:

1. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.A in that the Zone Change Application amendment complies with the goals, policies, and other applicable provisions of the Yamhill County Comprehensive Plan as follows:

i. Section B – Rural Area Development. The Zone Change Application is consistent with this goal as a vineyard and winery are uses that are customarily found in rural areas and are better suited for rural locations, as evidenced by those uses being permitted uses within the EFU zone and YCZO 402.00. The Zone Change Application is also consistent with the policies within Goal 1 in that the Applicant's intended uses for the Subject Property, such as a winery, vineyard and related rural uses, are not urban development, and are suited for the Subject Property. The Application is also consistent with Rural Area Development Goal 2 and its policies in that the proposed uses are not and will not be rural residential development. The Application complies with and is consistent with the Rural Development Section of the Comprehensive Plan.

ii. Comprehensive Plan Section F – Economic Development. The viticultural industry is now central to Yamhill County's economic development, economic growth and is consistent with Yamhill County's rural and agricultural base. The development of Subject Property with a winery and vineyards will bring additional income and economic growth to Yamhill County while maintaining the agricultural nature of its rural lands. The Zone Change Application complies with and is consistent with the Economic Development goal and its policies.

iii. The Application is not relevant to, nor does it implicate the Urban Development, the Alternative Development, the City Growth and Development, the Housing, the Commercial Development, or the Industrial Development sections of the Comprehensive Plan.

2. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.B in that the proposed EF-40 designation shall be appropriate for the existing or intended use of the property. Both the EF-80 and the EF-40 zoning designation are described and implemented in Yamhill County through Yamhill County Zoning Ordinance Section 402.00. A winery is an allowed use in the EF-40 zone pursuant to YCZO Section 402.02 H. A vineyard is a "farm use" and is an allowed use the EF-40 zone pursuant to YCZO Section 402.02 A.

3. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.C in that the proposed zone change to EF-40 shall result in an area of at least 160 contiguous acres with the requested designation, including adjacent land. The Subject Property comprises 131 acres. The Subject Property is bordered by tax lots 3401-1100, 3401-300, 3401-700 and 3401-800, among others. Tax lot 3401-1100 is currently zoned Exclusive Farm Use and consists of approximately 129 acres. Tax lot 3401-300 is currently zoned

Exclusive Farm Use and consists of approximately 20 acres. Tax lot 3401-700 is currently zoned Exclusive Farm Use and consists of approximately 46 acres. Tax lot 3401-800 is currently zoned Exclusive Farm Use and consists of 47 acres.

Yamhill County has interpreted the “requested designation” requirement of this subsection C to mean the comprehensive plan designation such as Exclusive Farm Use (EFU) or Agricultural / Forestry Small Holding (AF) or Rural Residential (RR), rather than the specific zoning designation, such as EF-40 or EF-80 or AF-20. The Subject Property, along with the bordering tax lots identified above, comprise not less than 373 contiguous acres zoned as Exclusive Farm Use.

4. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.D in that the new minimum lot size of EF-40 for a 51-acre parcel shall be appropriate to maintain the existing commercial agricultural enterprise in the area. The Record includes the 2008 Oregon Vineyard and Winery Report (the 2008 Winery Report¹), which establishes that a minimum 40-acre lot size is more than appropriate to maintain the commercial agricultural enterprise in the area.

The Winery Report illustrates that the average vineyard size in Yamhill County is 24.73 acres and that the average vineyard size in Oregon is 22.55 acres.

The Record also includes a list and information on all parcels located within two (2) miles of the Subject Property¹. The list establishes that there are 447 parcels located within two (2) miles of the Subject Parcel (including the Subject Parcel in its current configuration as a 131 acre parcel). 404 (90.3%) of those parcels are less than 80 acres in size, meaning that, if created now, they would require a zoning designation less than EF-80. 77 parcels (17.23%) are between 40 acres and 79.9 acres in size, meaning that the EF-40 zoning designation would be appropriate for those parcels. This information clearly establishes that an EF-40 zoning designation, and a 40-50 acre parcel, is of sufficient size to continue the existing commercial enterprise in the area.

The Record also includes Table 1 of the *USDA 2007 Census of Agriculture* (“USDA Census”). The USDA Census provides that there were 2,115 farms in Yamhill County in 2007. 1,538 (72.7%) of the farms were 49 acres or less in size. The USDA Census provides that the median size of a farm in Yamhill County is 20 acres. This information clearly establishes that an EF-40 zoning designation, and a 40-50 acre parcel, is of sufficient size to continue the existing commercial enterprise in the area.

5. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.E in that for proposed changes within or to an Agriculture/Forestry designation, the new minimum lot size shall be shown to assure: (i) The opportunity for economically efficient forest and agriculture practices typically occurring in the area; (ii) the opportunity for the continuous growing and harvesting of forest tree species; and (iii) the conservation of other forest values found on forest lands. The current zoning designation and the proposed zoning

¹ Note, however, that the relevant “area” for this Application, as discussed supra, is a 1-mile radius around the Subject Property.

designation are both exclusive farm use, not agriculture/forestry. Therefore, this subsection is not applicable to this Zone Change Application.

6. The Zone Change Application complies with Yamhill County Zoning Ordinance Section 1208.03.F in that the Zone Change Application has been considered and approved by the Land Conservation and Development Commission pursuant to ORS 215.780(2) as described in LCDC Review Order 09-Remand-001774.

7. The Zone Change Application complies with ORS 215.243, Oregon's agricultural land use policy, in that the viticultural industry is now an important and integral part of Yamhill County and Oregon's agricultural economy. The Zone Change Application will efficiently allow the Applicant to develop the winery and vineyard, further and enhance the physical beauty of the property, provide increased social and aesthetic opportunities in the area and promote and increase agricultural economic development. No land is being lost or taken from agricultural use or being put to an "urban" use.

The Record in this matter clearly establishes that the commercial agricultural enterprise on the Subject Property is better continued and utilized by changing the zoning for the Subject Property to allow minimum parcel size of 40 acres on a 51-acre portion of the Subject Property. The zone change to EF-40 will still allow a parcel of sufficient size to operate a commercially viable vineyard and winery.

8. The Zone Change Application complies with ORS 215.780, as the Applicant has demonstrated to the Land Conservation and Development Commission, as established in LCDC Review Order 09-Remand-001774, that a zone change for the 51-acre portion of the Subject Property to EF-40 will meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

9. The Zone Change Application complies with ORS 215.243(2), as the Zone Change Application will preserve of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

As noted in the 2008 Winery Report, the average vineyard size in Yamhill County is only 24.73 acres and the average vineyard size state-wide is 22.55 acres. Evidence in the Record provides that in 2008 the average price for Pinot Noir grapes was \$2,600 per ton, and the average yield (based upon a 3-year period ended in 2008) was 2.56 tons per acre. Therefore, the gross revenue per acre of Pinot Noir grapes would be \$6,656.00. The 35 acres of Pinot Noir grapes that are planted on the proposed 51-acre parcel (Parcel 2) will average gross revenue of \$232,960.00, and this does not even include the revenues from the winery. Further, evidence in the Record is that the average lifetime of a planted vineyard is 40 to 80 years. With 35 acres of the proposed 51-acre parcel (68 percent) already planted in vineyard, this proposed parcel is committed to commercial agricultural use for the foreseeable future.

Finally, it should be noted that LCDC determined that, based upon “evidence in its record, the Commission concludes that the County can make findings on remand that demonstrate that a 40-acre minimum parcel size for a 51-acre portion of the specific area² preserves the area’s supply of agricultural land in a block that will maintain the area in agricultural use as a vineyard and winery, thereby contributing to the area’s commercial agricultural enterprise. Therefore, the Commission finds that the lower minimum lot or parcel size will meet the agricultural lands policy requirements of ORS 215.243(2).”

10. The Zone Change Application complies with ORS 215.243(3), in that LCDC determined that a 40-acre minimum parcel size is not urban as a matter of law.

11. The Zone Change Application complies with ORS 215.243(4), in that the Subject Property is zoned and Comprehensive Plan designated ‘Exclusive Farm Use’ and would remain so after approval of the Zone Change Application and the partition of the Subject Property. LCDC acknowledges that Yamhill County has demonstrated “that the 51-acre portion of the specific area is zoned Exclusive Farm Use; therefore the County has demonstrated [that] its decision continues to meet the requirements of ORS 215.243(4).

12. ORS 527.630 is not applicable to the Zone Change Application. ORS 527.630 establishes state forestland policy. The Subject Property and the specific area are designated as agricultural land. Therefore, ORS 527.630 is not applicable to this ‘area’ or the Zone Change Application.

13. OAR 660-033-0100 requires that the Zone Change Application must also comply with the Statewide Planning Goals. Evidence in the Record, as shown below, established that the Zone Change Application is either consistent with and complies with the Statewide Planning Goals or the specific Statewide Planning Goal is not applicable to the area, the Subject Property or the Zone Change Application.

14. The Zone Change Application complies with Statewide Planning Goal 1, in that the Zone Change Application is not inconsistent with the County’s citizen involvement program and therefore the Zone Change Application complies with Goal 1.

The Zone Change Application complies with Statewide Planning Goal 2, in that Yamhill County maintains a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The Zone Change Application was considered at public hearing before the Planning Commission and the Board of Commissioners. The Record contains substantial evidence supporting approval of the Zone Change Application.

15. The Zone Change Application complies with Statewide Planning Goal 3 as prescribed in OAR 660-033-0100 as established below:

² As used in this section, and remainder of this Board Order, the “area” refers to the 1-mile radius surrounding the Subject Property.

i. *Determination of the 'specific area.'* For this Zone Change Application, the 'specific area' consists of the properties within a 1-mile radius of the Subject Property. There are 128 tax lots within this area. The Record includes a list of these properties, with the smallest parcels in the area being less than 1 acre in size and the largest parcel almost 407 acres in size. An "area" consisting of the properties within a 1-mile radius of the Subject Property is sufficient to accurately represent the commercial agricultural enterprise(s) that surround the Subject Property and are relevant to this analysis.

ii. *Determination of the commercial agricultural enterprise(s) or operations in the area.* The Record provides that at least thirty-one (31) parcels within the area that maintain vineyard activity, meaning that at least twenty-five percent (25%) of the parcels within the area are committed to vineyard use. Therefore, the commercial agricultural enterprise in the area is vineyard and winery use.

iii. *Determination of whether the proposed minimum parcel size (or partition) will result in parcels of sufficient size to "maintain" or "continue" the existing commercial agricultural enterprise in the area.* OAR 660-05-020(6) provides that to 'maintain' or 'continue' existing commercial agricultural enterprise in an area does not mean that the new and remaining parcel sizes must have no negative effect on an area's commercial agricultural enterprise. Instead, 'maintain' and 'continue' imply a balance, and therefore Goal 3 requires that the new and remaining parcel sizes on balance, and considering the positive and negative effects, will keep the area's commercial agricultural enterprises successful, and not contribute to their decline.

The Record establishes that 101 of the 128 parcels within the area are 51 acres in size or less. Of the 31 parcels that are in vineyard or winery use, the smallest parcel is 1.3 acres in size and the largest parcel is 202 acres in size. The median parcel size for the 31 vineyard parcels is 40 acres. The median parcel size for all 128 parcels within the area is 20 acres. This information, combined with the information provided in the 2008 Winery Report and USDA Census (previously discussed) establish that a proposed 40-acre minimum lot size with a 51-acre parcel is of sufficient size to "maintain" or continue the existing commercial agricultural enterprise in the area.

iv. *OAR 660-033-0100(3).* Pursuant to OAR 660-033-0100(3), the county the must complete the following steps in order to determine a minimum parcel size: (a) identify different agricultural areas within the county; (b) determine the nature of the commercial agricultural enterprise in the county, or within areas if the county; (c) identify the type(s) and size(s) of farms or ranches that comprise this commercial agricultural enterprise; and (d) determine the minimum size for new parcels that will maintain this commercial agricultural enterprise.

(a). Identify different agricultural areas within the county. OAR 660-033-0100(4). The Record includes James R. Pease of the Oregon State University Extension Service May 1990 report - *Agricultural Resources Lands Project and Completion Report on Long-Range Goals, Database, Criteria, and Proposed Standards for the Exclusive Farm Use*

Zone (the "Pease Report"). The Pease Report documented the standards for the Exclusive Farm Use zones in Yamhill County, and used a number of databases to determine the agricultural areas, including the Census of Agriculture, the Oregon State University Extension Office Extension Commodity Harvest, Yield, and Sales Estimates, the Profiles of Commercial Agriculture, USDA ASCS data, land sales data and county assessor data. The Pease Report acknowledged that information including soil types, farm sizes, types of commodities, gross sales and marketing was necessary to meet the OAR requirements.

The Pease Report identified four (4) agricultural subareas in Yamhill County: 1) the Willamette Valley Floor including floodplains and terraces extending from Amity-Bellvue, Grand Isle, Dayton Prairie, and northward to Yamhill; 2) Valley Foothills including Amity-Eola Hills, Parrett Mountain, and Chehalem Mountain; 3) Chehalem Valley; and 4) Western Foothills. The Pease Report noted that the largest farms were located in the Willamette Valley subarea. The farms in the Valley Foothills were generally smaller than those on the Willamette Valley Floor and tended to be orchards, grapes or grazing farms.

(b). Determine the nature of the commercial agricultural enterprise in the county.

OAR 660-033-0100(5). The Pease Report noted that the dominant crops and livestock of the farms in the Willamette Valley Floor subarea included vegetables, berries, tree nuts, cash grains, grass seed, grazing (sheep and cattle), and dairies. The Chehalem Valley subarea tended to have the same crops as the Willamette Valley Floor, though with smaller farms. The dominant crops in the Valley Foothills, as noted above, tend to orchards, grapes and grazing. Agricultural production in the Western Foothills was limited by poor soils, and the agricultural production was generally grazing, grapes and Christmas trees.

A 2009 report from the Oregon State University Extension Economic Information Office, which is included in the Record, identified Yamhill County's agricultural commodity sales for 2008. Pursuant to the report, forty-four percent (44%) of agricultural sales are nursery and greenhouse crops; nineteen percent (19%) of agricultural sales are grass and legume seeds; twelve percent (12%) of agricultural sales are tree fruit and nuts; seven percent (7%) of agricultural sales are dairy products; grain and hay comprise four percent (4%) of commodity sales; and small woodlots and Christmas trees comprise three percent (3%) of commodity sales.

(c). Identify the type(s) and size(s) of farms or ranches that comprise this commercial agricultural enterprise.

OAR 660-033-0100(5). The USDA Census provides information regarding the size and types of farms in Yamhill County. The USDA Census reported 2,115 farms in Yamhill County. 526 farms (24.87%) are 1 to 9 acres. 1,012 farms (47.85%) are 10 to 49 acres in size. 377 farms (17.83%) are 50 to 179 acres in size. 118 farms (5.58%) are 180 to 499 acres in size. 51 farms (2.41%) are 500 to 999 acres in size and 31 farms (1.46%) are over 1,000 acres in size. With over 72% of the farms 49 acres or less in size, clearly smaller farms dominate the commercial agricultural enterprise in Yamhill County.

The USDA Census also provides that there are 1,515 farms with cropland, with 1,312 of those farms having harvested cropland and 475 farms having irrigated land. There are approximately 610 farms for livestock and poultry.

(d). Determine the minimum size for new parcels that will maintain this commercial agricultural enterprise. OAR 660-033-0100(6) The information from the 2008 Winery Report, the USDA Census and the information provided from the vineyards located in the 'specific area' all demonstrate that a 40 – 50 acre parcel will maintain the commercial agricultural enterprise in the area. The Pease Report, which set out to determine the standards in Exclusive Farm Use zoned to “provide protection for the continuation of commercial-scale agriculture in the county...” found that 30 acres was the minimum tract stands for the Valley Foothills.

v. OAR 660-033-0100(7). OAR 660-033-0100(7) provides that a “minimum lot size for new parcels does not mean that dwellings may be approved automatically on parcels that satisfy the minimum parcels size for the area. New dwellings in conjunction with farm use shall satisfy the criteria for such dwellings as set forth in OAR 660-033-0130(1).” Yamhill County and LCDC are requiring as a condition of approval of the Zone Change Application that the Applicants impose a deed restriction against the proposed 51-acre parcel that will prohibit the establishment of any dwelling.

vi. OAR 660-033-0100(8). OAR 660-033-0100(8) provides that a “minimum size for new parcels may be appropriate to maintain existing agricultural enterprise in the area, but it may not be adequate to protect wildlife habitat pursuant to Goal 5. When farmland is located in areas of wildlife habitat, the provisions of Goal 5 continue to apply.” The Subject Property is not inventoried as a Goal 5 resource.

vii. OAR 660-033-0100(9). OAR 660-033-0100(9) provides that a “county may choose to establish different minimum parcel size for distinct commercial agricultural areas of the county. The appropriate minimum lot size or parcel size for each area shall reflect the type of commercial agriculture in the area, consistent with sections (3) – (6) of this rule.” The type of commercial agriculture in the specific area is vineyards. As shown herein, a 40-acre minimum parcel size is appropriate for the continuation of the commercial enterprise in the area.

16. Statewide Planning Goal 4 – Forest Lands is not applicable to the Zone Change Application.

17. Statewide Planning Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources is not applicable to the Zone Change Application as the Subject Property has no identified wildlife habitat areas and is not mapped or inventoried as a Goal 5 resource.

18. The Zone Change Application complies with Statewide Planning Goal 6 – Air, Water and Land Resources Quality, as evidence in the Record establishes that the vineyard portion of the Subject Property will be managed and maintained by best practices common to the viticultural industry. The winery was subject to site design review and other inspections during approval and construction. The condition of approval prohibiting construction of a dwelling on the 51-acre parcel also helps ensure compliance with Goal 6 as the Subject Property will be solely used for agricultural / viticultural activities and uses.

19. Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards is not applicable to the Zone Change Application as the Subject Property is not subject to any known, mapped or inventoried natural hazards.

20. The Zone Change Application either complies with Statewide Planning Goal 8 – Recreational Needs, or Goal 8 is not applicable to the Zone Change Application as the Zone Change will not have a direct or secondary effect on Yamhill County’s inventories recreational areas, facilities or opportunities.

21. The Zone Change Application complies with Statewide Planning Goal 9 – Economic Development, as evidence in the Record establishes that a 40-acre vineyard parcel exceeds the average vineyard size in Yamhill County, and that the combined vineyard and winery could produce gross revenues in excess of \$1 million per year and that the vineyard and winery will employ both full-time and part-time employees.

22. Statewide Planning Goal 10 – Housing is not applicable to the Zone Change Application as the Subject Property is not within an urban growth boundary and does not meet the Goal 10 definition of ‘buildable lands.’

23. The Zone Change Application either complies with Statewide Planning Goal 11 – Public Facilities and Services, or Goal 11 is not applicable to the Zone Change Application as the proposed vineyard and winery uses on the Subject Property do not require public facilities for water or sewer, and the proposed development and 40-acre minimum parcel size is not urban development.

24. The Zone Change Application complies Statewide Planning Goal 12 – Transportation, as the zone change from EF-80 to EF-40 would not significantly affect an existing or planned transportation facility under OAR 660-012-0060(1). The Zone Change Application does not change the zoning of the specific area or Subject Property in a manner that would thereby allow traffic to be generated from the area that is not presently allowed or potentially allowable under ORS 215.283.

25. The Zone Change Application complies with Statewide Planning Goal 13 – Energy Conservation, as the vineyard portion of the Subject Property will be managed and maintained by best practices common to the viticultural industry. The winery was subject to site design review and other inspections during approval and construction. The winery and vineyard are allowed uses and in the zone and are compatible with the surrounding vineyard uses and activities. Evidence in the Record establishes that the winery was sited on the property in the best location to allow for maximum use of the property for vineyard and that the winery makes use of solar energy. Further, the winery is located close to the road access.

26. The Zone Change Application complies with Statewide Planning Goal 14 – Urbanization as LCDC has determined that a 40-acre minimum parcel size is not urban as a matter of law.

27. Statewide Planning Goal 15 – Willamette River Greenway is not applicable to the Zone Change Application as the Subject Property and the specific area are not subject to Goal 15.

28. Statewide Planning Goal 16 – Estuarine Resources is not applicable to the Zone Change Application as the Subject Property and the specific area are not subject to Goal 16.

29. Statewide Planning Goal 17 – Coastal Shorelands is not applicable to the Zone Change Application as the Subject Property and the specific area are not subject to Goal 17.

30. Statewide Planning Goal 18 – Beaches and Dunes is not applicable to the Zone Change Application as the Subject Property and the specific area are not subject to Goal 18.

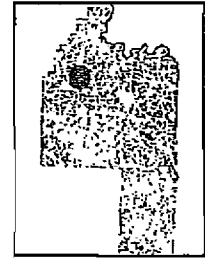
31. Statewide Planning Goal 19 – Ocean Resources is not applicable to the Zone Change Application as the Subject Property and the specific area are not subject to Goal 19.

32. Accessory and related uses on the Subject Property identified by the Applicant in the Zone Change Application, including gardens, a culinary arts program that provides cooking classes, winemaker dinners, private member events and a guest chef series, are not included with Zone Change Application and the Applicant or other party must make separate application for approval of those uses, if necessary.

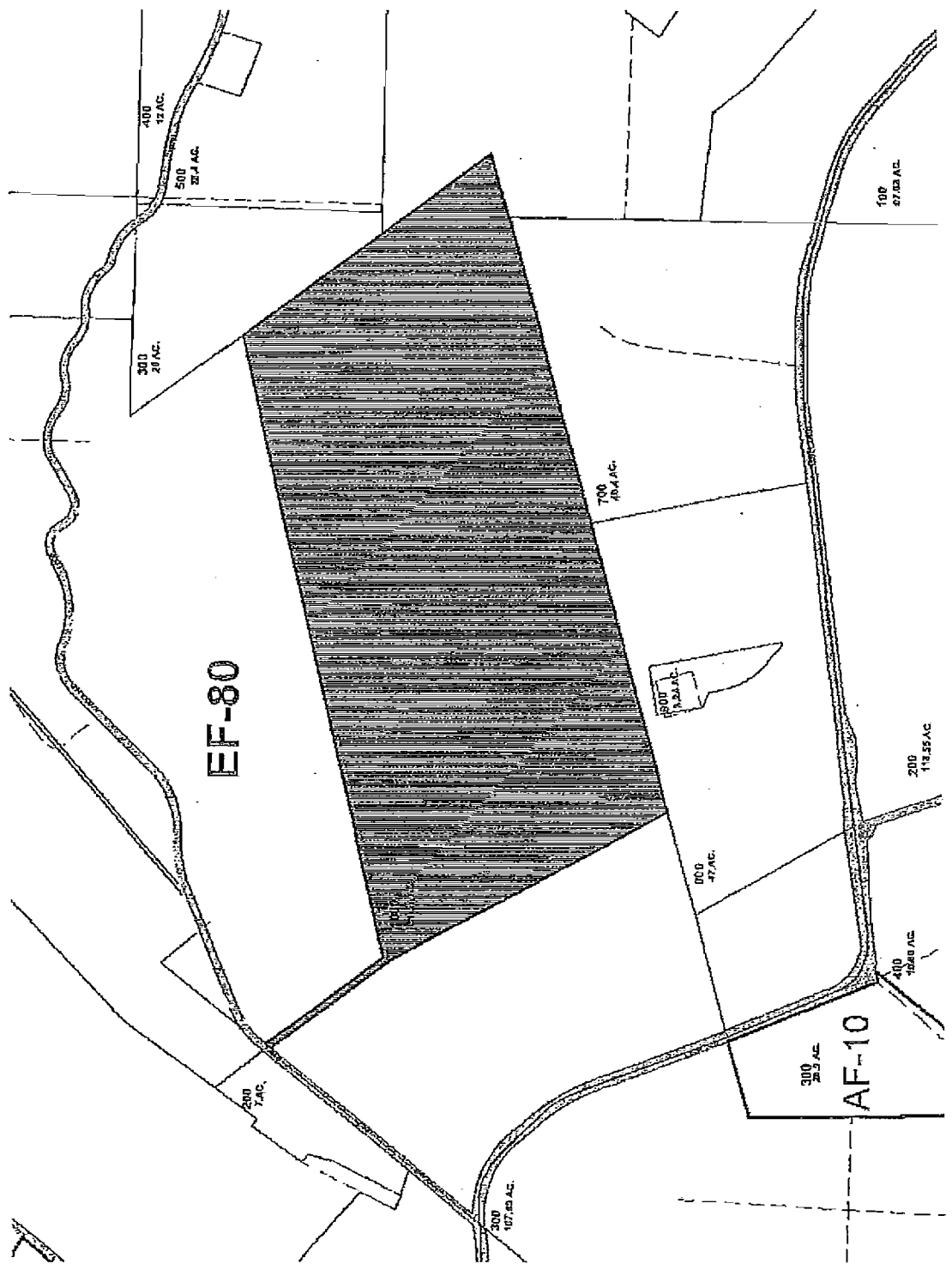
Ordinance 850 Montalico - Exhibit B

Yamhill County Map

- County Roads
- County Highways
- State Highways
- Private Roads
- Parcels
- Trails
- right of ways
- water lines
- utility polygons
- Traverse Boundary
- Zoning



2/4/2009



1 in. = 800 ft

This map was produced using the Yamhill County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

B.O. 09-856

PROPOSED PARTITION MAP

Laurent and Danielle Mortalieu

Location: Section 1 T. 3 S., R. 4 W., W.M.,
17100 NE Woodland Loop Rd, Yamhill County, OR
Tax Lot: 3401-1000
Date: 23 January, 2009

Narrative

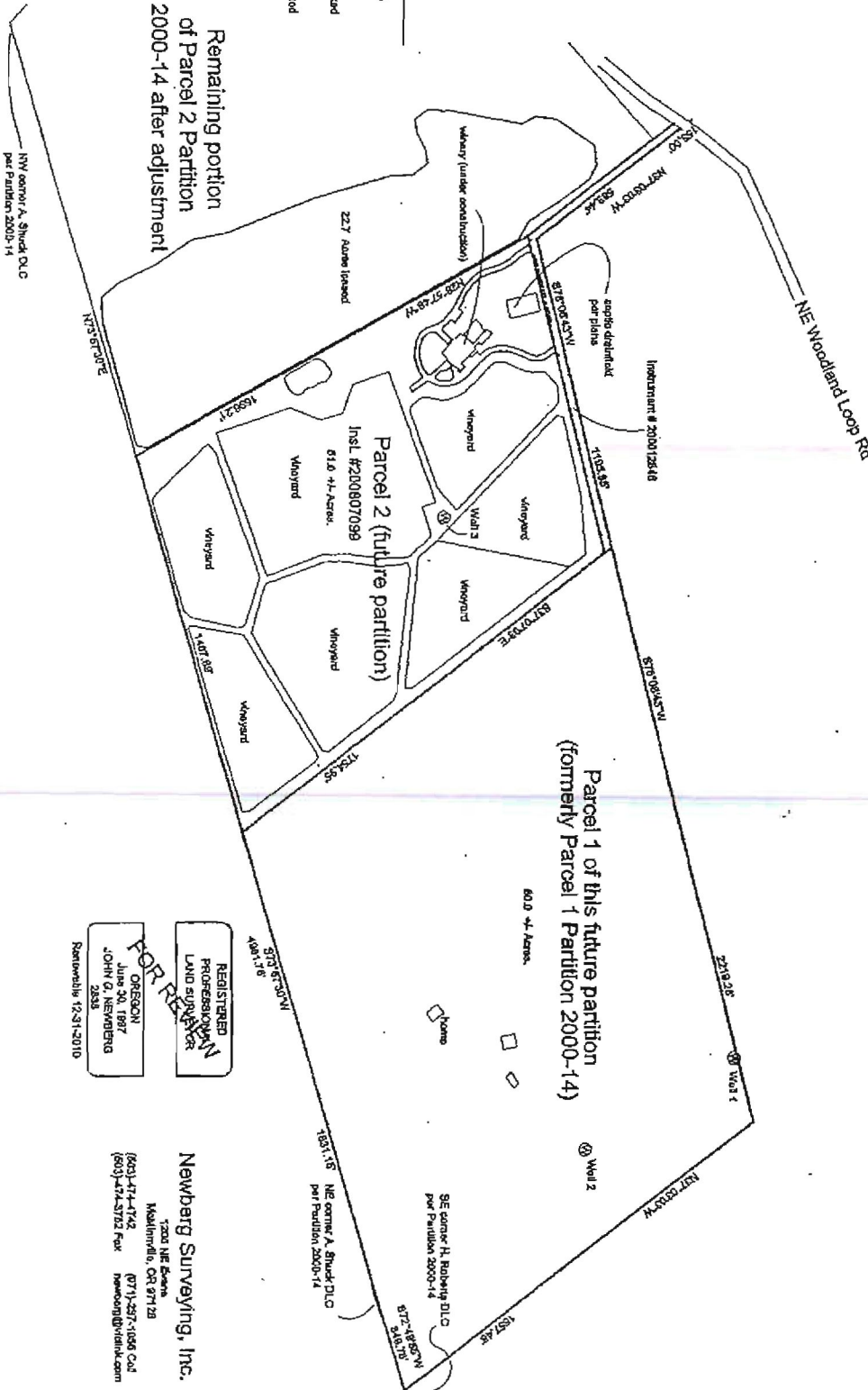
The purpose of this survey is to prepare a map for a future partition application. This map was prepared without any field verification of monument locations and is based on record dimensions per Partition Plat 2000-14, and (a) line segment on the partition instrument 200012840 recorded September 6, 2000, and instrument 2000107099 recorded April 24, 2000, (b) field of bearing to per Partition Plat 2000-14. The location shown of buildings and vineyards are based from aerial photos and subdivision plans.



Legend

- = monument found, flush to 0.2 degree, 1" grid, location within 200 meters, symbol: Digits unless it is shown.
- = 6" X 30" iron rod set with ypo marked "NEWBERG LS 2000"
- ⊙ = 4" Surtman 892" Monument marked "LS 2000" with punch mark.
- ⊖ = iron pipe with bronze cap as a mark.
- ⊕ = yellow plastic cap.
- ⊖ = red plastic cap.
- ⊖ = iron rod.
- ⊖ = iron pipe.
- ⊖ = date of record per []
- ⊖ = control point (50-D split)

Remaining portion
of Parcel 2 Partition
2000-14 after adjustment

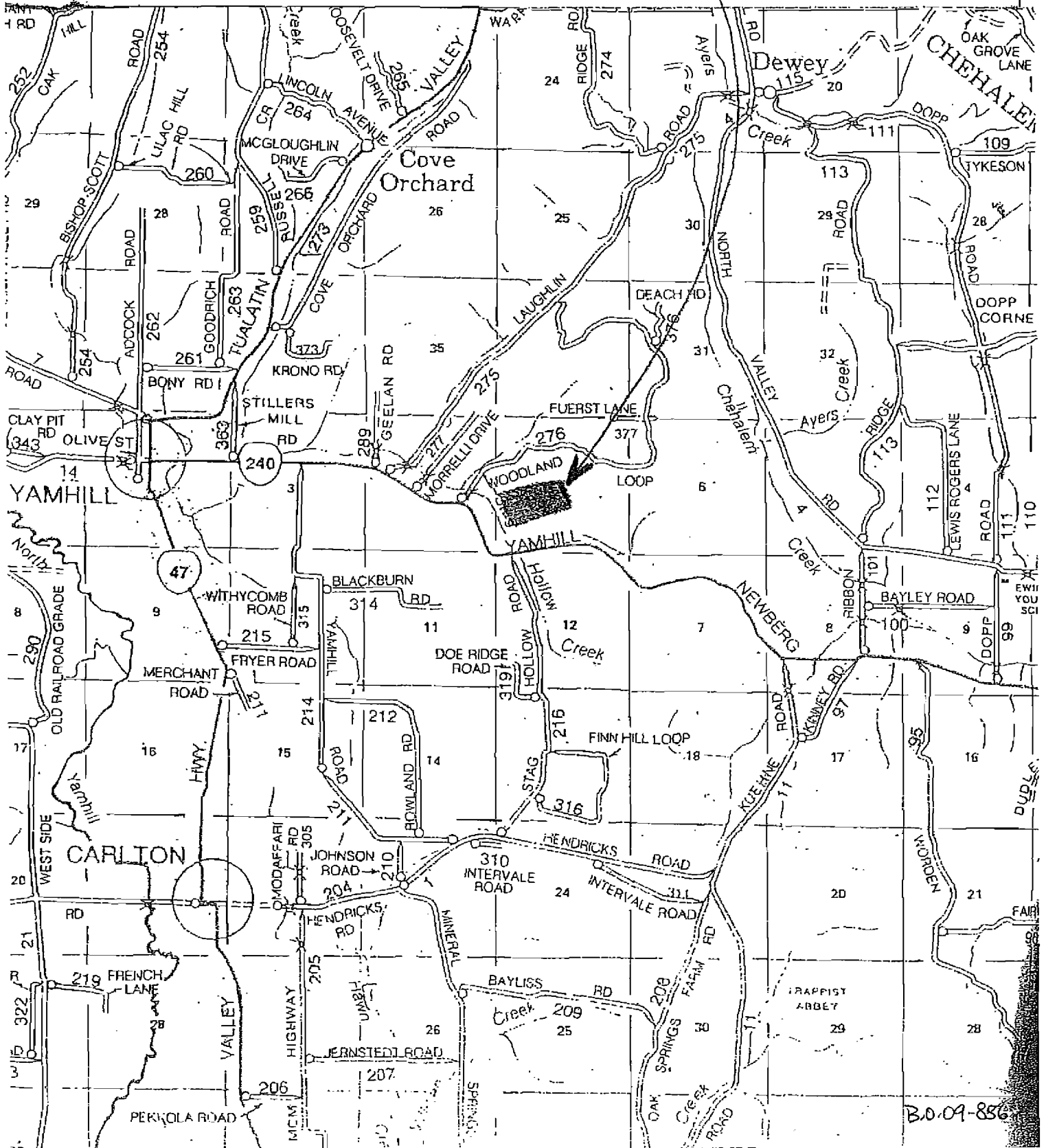


FOR RECORD
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
June 20, 1987
JOHN G. NEWBERG
2853
Renewable 12-31-2010

Newberg Surveying, Inc.
1200 NE Duane
Madras, OR 97721
(503)-474-4742 (503)-257-1056 Cell
(503)-474-5752 Fax newbergs@vnet.com

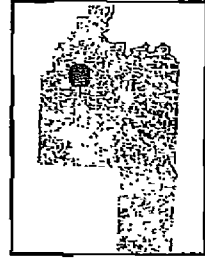
VICINITY MAP

LOCATION OF PROPERTY

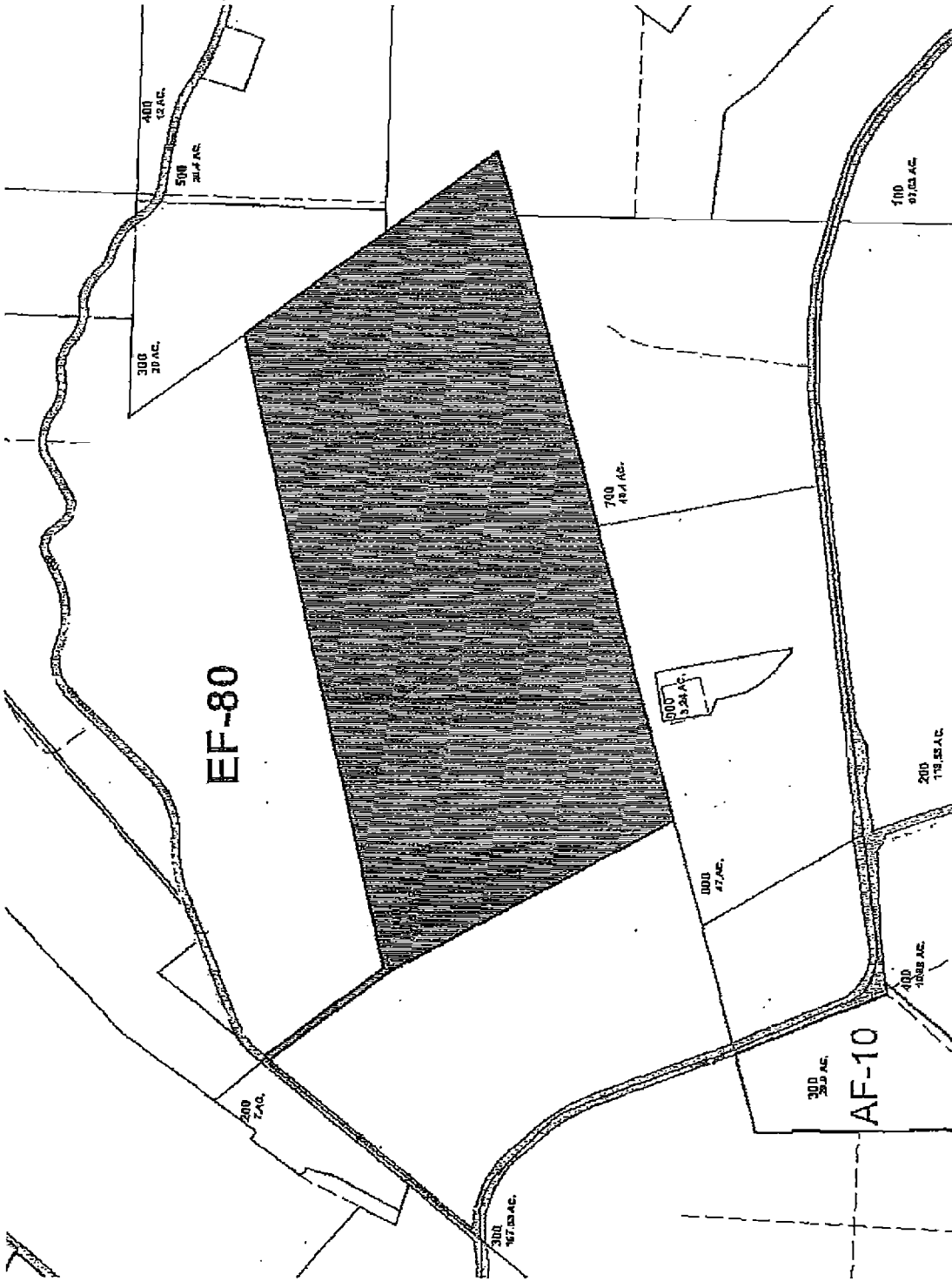


Yamhill County Map

- County Needs
- County Roads
- State Highways
- Private Roads
- Roads Fronts
- Trails
- Right of way
- Lot lines
- Lot polygons
- Trails History
- Zoning



2/4/2009



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B.o.09-856

Yamhill County Dept
of Planning & Development
605 NE Fourth St
McMinnville, OR 97128
<http://www.co.yamhill.or.us/plan/>

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

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