



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

11/23/2009

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 011-08

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: Friday, December 04, 2009

This amendment was submitted to DLCD for review 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 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
Gloria Gardiner, DLCD Urban Planning Specialist
Gary Fish, DLCD Regional Representative

Thomas Hogue, DLCD Regional Representative
Angela Lazarean, DLCD Regional Representative

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FORM **2**

DLCD

Notice of Adoption

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

In person electronic mailed

DEPT OF

NOV 16 2009

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Yamhill County**

Local file number: **PA-02-08**

Date of Adoption: **11/4/09**

Date Mailed: **11/12/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/05/08

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".
To increase the urban growth boundary of the City of Yamhill by approximately 20 acres.

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

Plan Map Changed from: **Ag/Forestry Large Holding**

to: **Future Urbanizable**

Zone Map Changed from:

to:

Location: **1260 E. Main Street, Yamhill**

Acres Involved: **20**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

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. 011-08(17123) [15832]

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

City of Newberg

Local Contact: **Ken Friday**
Address: **247 NW Ash Street**
City: **McMinnville**

Zip: **97128**

Phone: **(503) 434-7516** Extension: **3630**
Fax Number: **- -**
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**.

Updated March 17, 2009

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 Amending the Urban Growth Boundary (UGB))
to take a Parcel located at 1260 E Main Street, Yamhill, into the)
Yamhill UGB, being an 18.5 acre portion of Tax Lot 3403-1400) Ordinance 847
and 1.5 acres of Tax Lot 3404AD-907, Planning Docket PA-02-08,))
Applicants Van Dyke Riverview Farms LLC & Tim Landauer,)
and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on November 4, 2009, Commissioners Leslie Lewis, Kathy George and Mary P. Stern being present.

IT APPEARING TO THE BOARD that Van Dyke Riverview Farms LLC and Tim Landauer requested that an 18.5 acre portion of Tax Lot 3403-1400 and 1.5 acres of Tax Lot 3404AD-907 be taken into the into the Yamhill UGB, and

IT APPEARING TO THE BOARD that the Yamhill Urban Area Management Commission heard this matter at a duly noticed public hearing on May 18, 2009 and unanimously voted to recommend approval to the Board, and the Board held a duly noticed public hearing on October 28, 2009, and voted unanimously to approve the application, NOW, THEREFORE,

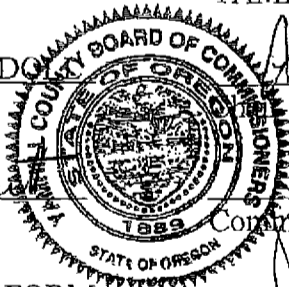
IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage. A map is appended as Exhibit "B".

DONE this 4th day of November, 2009, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

REBEKAH STERN
County Clerk



Leslie Lewis

LESLIE LEWIS

By *Anne Britt*
Deputy Anne Britt

Kathy George

KATHY GEORGE

APPROVED AS TO FORM:

Mary P. Stern

Commissioner MARY P. STERN

Rick Sanaj
Rick Sanaj, Assistant County Counsel

Findings for Approval - Exhibit "A"

DOCKET NO.: PA-02-08

REQUEST: To amend the Urban Growth Boundary (UGB) to take in approximately 20 acres into the Yamhill UGB. Approval of the request would allow eventual inclusion of the property into the city limits for light industrial use.

APPLICANT: Van Dyke Riverview Farms LLC and Tim Landauer

TAX LOT: An 18.5 acre portion of 3403-1400 and 1.5 acres described as 3404AD-907

LOCATION: 1260 E Main Street, Yamhill, Oregon

CRITERIA: Yamhill County Comprehensive Plan Goals and Policies, Yamhill Urban Area Management Agreement, Statewide Planning Goals, Oregon Revised Statute 197.298 and the Oregon Administrative Rules, including OAR 660-012-0060.

A. Background Facts:

1. *Site Characteristics:* The Site Characteristics are found on page 4 of the original application which is incorporated here by this reference, in its entirety. The 20 acres proposed for inclusion in the Yamhill urban growth boundary (UGB) will be referred to as the "subject site."
2. *Water and sewer:* City of Yamhill.
3. *Surrounding Land Use and Zoning:* Property to the north and south is zoned EF-80 Exclusive Farm use and contains grass or grain crops. Property to the east, along the railroad is zoned HI Heavy Industrial. The majority of the property to the west of the site is zoned VLDR 2.5 Very Low Density Residential and has been split into rural residential homesites that average 2.5 acres in size. The portion west of the Landauer property is within the Yamhill city limits, and is zoned for residential use.
4. *Fire Protection:* Yamhill Rural Fire District.
5. *Soils:* The Yamhill County Soil Survey shows that the majority of the subject site is made up of Amity (Am) and Woodburn (WuB) soils, which are rated as Class II high-value farmland. Approximately 5 acres is made up of Wapato Silty Clay Loam (Wc) which is rated as Class III non-high-value farmland. Most of the Wapato soils are within the flood hazard overlay zone.
6. *Previous Actions:* The eastern portion of the subject parcel that is zoned HI Heavy Industrial was assigned in Ordinance No. 202 which was adopted as a 10-acre exception area on June 20, 1979. Ordinance No. 202 listed this site as "Mill Operation, Grain Elevator/Storage."

7. *Procedure:* The Yamhill Urban Area Growth Management Agreement governs the procedures for processing a UGB amendment. The application went before the Yamhill Urban Area Management Commission (YUAMC) for a public hearing. The YUAMC made findings and forwarded its unanimous decision to recommend approval of the application the Yamhill City Council and the Board of County Commissioners. The agreement states "*Each governing body may then make a determination based upon the facts and record presented at the YUAMC hearing and shall not be required to hold a public hearing thereon.*"
8. *Flood Hazard Overlay:* Flood Insurance Rate Map 410249 0133C shows the western portion of the subject property is within the flood hazard overlay zone. The County GIS shows approximately 6.25 acres as being in the 100-year floodplain.
9. *Coordinated Population Projection:* ORS 195.036 requires the County to establish and maintain a population forecast for use in maintaining and updating comprehensive plans, and to coordinate the forecast with each of the cities in the county. In order for the population figure to be coordinated, the Board of Commissioners adopted Board Order 01-582 which identifies the Planning Director as the person responsible for coordinating the number. The process that the Planning Department uses is that the City presents their population projection and a report for said projection. The City officials did that on November 4, 2008. On November 24, 2008, the Yamhill County Planning Director issued a letter to the city of Yamhill confirming the City's 2030 population estimate of 1,525 and noting that this number will need to be adopted with the next amendment to the Urban Growth Boundary (UGB). In a March 6, 2009, e-mail from Gary Fish, DLCD, he indicated that Board Order 01-582 was not in compliance with ORS 195.036. It should be noted that at the time this procedure was adopted in 2001 it was in compliance with ORS 195.036 because previous DLCD staff had evaluated the Board Order and found nothing legally incorrect with the procedure. It does not appear that the language of ORS 195.036 has changed, so it is not clear as to why this procedure is out of compliance with the statute.

In addition, Mr. Fish had indicated on the last sentence in his letter of October 10, 2008, that, "Neither the Yamhill County TSP 2014 forecast nor the 2017 city and county estimates used in the application comply with the necessary population forecast requirements." While Mr. Fish may be correct on the 2017 estimate, he is incorrect about the 2014 forecast. The 2014 forecast complies because it was acknowledged by DLCD when it was adopted in 1996 as part of the County's Transportation System Plan. In fact, in 1997 attorneys from the Department of Justice asked questions about the 2014 estimate and concluded that it was in compliance with the (then newly adopted) population coordination statute. The county Planning office has used this forecast as a reference point ever since it was adopted.

Mr. Fish suggests adopting a 2008-2028 forecast and having it adopted at the same time the UGB is adopted. The supplemental report prepared by the applicant has a 2028 population estimate of 1,390. The Board hereby adopts this number.

B. Urban Area Growth Management Agreement Provisions

1. Criteria to be addressed in UGB amendment requests include the Yamhill Urban Area Growth Management Agreement, the statewide planning goals, and the City and County Comprehensive Plans. The review standards from the first three of these are detailed in the application and city staff report. Consideration of the Yamhill County Goals and Policies will be discussed below.

Even though the majority of the Yamhill County Goals and Policies are aspirational and are not to be mistaken for, or treated as, approval criteria, it is important that they be considered. Some of the goals and policies seem to conflict with one another. They are simply to be used as a guide to aid decision makers. For example, where goals or policies conflict the decision makers need to weigh the evidence and decide which goal or policy the request satisfies. Therefore, in each case, the YUAMC would need to decide whether the subject site and exclusion site are more appropriate to be preserved as farm land or it is better suited for orderly urban development. The following goals and policies are part of this determination.

2. The Yamhill County Comprehensive Plan, Section I.A., Goal 1, directs County:

To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land use.

To assure there is an efficient transition from rural to urban land uses there needs to be a demonstration of the need for additional urban land and a determination of the most suitable location for land of that identified need. With a grant from the state of Oregon, the City developed a report on the need for industrial and commercial lands within the city limits of Yamhill. The report is titled City of Yamhill Industrial Land Project 2006. Presently the City does not have any industrial land within the city limits that is available or appropriate for said use. The 2006 report identified the need and desired characteristics for land to be designated industrial. Those characteristics are listed on page 3 of the supplemental narrative submitted by the applicant, which is hereby incorporated by this reference.

After identifying the need, the next step is to evaluate the best locations/alternatives for locating the use. The first alternative is to look inside the existing UGB. If land is not available, the next step is to look at land outside of the UGB and to go through the priority list of lands available for expansion. Pages 7-11 of the supplemental application go over this analysis. Based on the evidence in the record, the Board finds that the UGB amendment is necessary and this is the best location compared with the alternatives. Based on the evidence in the record, the request would be an efficient transition from rural to urban use.

3. The Yamhill County Comprehensive Plan, Section II, Goal 1, states:

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

The property has historically been in farm use. The report prepared by the City identifies an estimated need of 44 acres of commercial and industrial land. The supplemental report submitted by the applicant shows six other alternative locations that were considered for expansion of the UGB. The Board finds the alternatives had attributes that made them not as suitable for inclusion in the UGB.

4. The Yamhill County Comprehensive Plan, Section II, Goal 2, Policy a. states:

Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

Both of the subject parcels under review consist primarily of Woodburn silt loam (WuB) and Amity (Am) soils with some Wapato (Wc) non high-value soils. The Woodburn and Amity soils are identified as Class II soils by the SCS and are classified as high-value farmland. The site can, and has been utilized as farmland. The supplemental report prepared by the applicant compares the subject parcel with six other sites. As noted above, the addition of the subject site appears to provide the best opportunity for orderly development of property by providing needed area for urban expansion adjacent to the City, where services are available or can be readily extended, thereby avoiding leap-frog development or other land consumptive practices.

5. The Yamhill County Comprehensive Plan, Section I, Goal 1, Economic Development directs the County:

To maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and under-employment in the county, balance the real property tax base of the various cities, and strengthen local economic bases.

In the last ten years it has become evident that Oregon's land use laws have shown that large blocks of industrial land are relatively rare. Industrial lands next to both a State highway and a railroad are rarer still. In 2001, the ailing economy spurred the Legislature to pass HB 3557, which appointed a special committee to investigate problems with the state's commercial and industrial land supply. In 2003, with his second executive order, Governor Kulongoski established an Industrial Lands Taskforce. One of the jobs of the Taskforce was to study and identify "shovel ready" sites for industrial development. Through these actions, the importance of industrial land, especially a supply of large blocks of industrial land, was highlighted. While the proposed expansion would take away farmland adjacent to a city, the Board finds it promotes the economic development goal stated above.

Docket PA-02-08

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CONCLUSION:

The request is to amend the Yamhill Urban Growth Boundary (UGB) to add approximately 20-acres of land for industrial use. The applicant has demonstrated that the request satisfies the Yamhill County Comprehensive Plan goals and policies by substantial evidence in the Record as a whole.

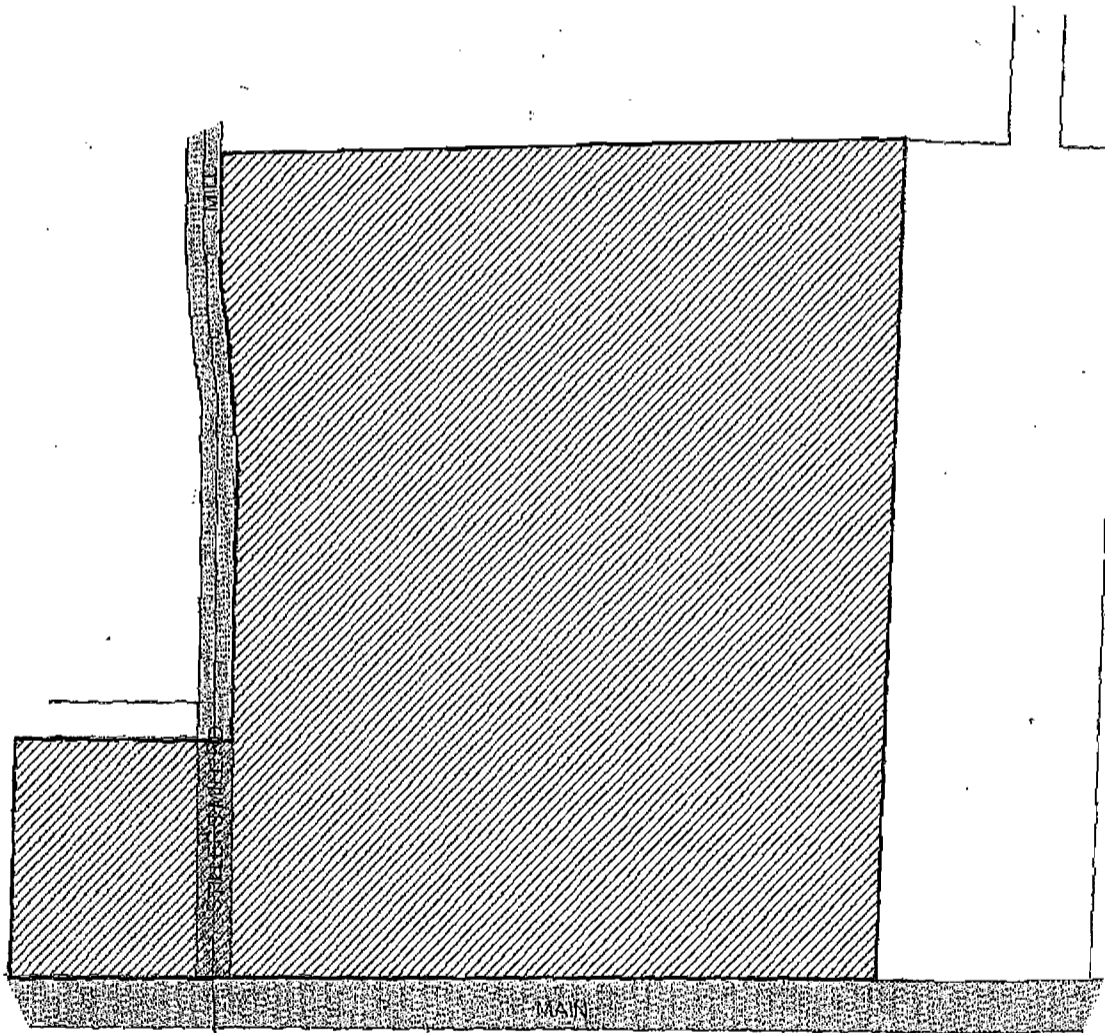
DECISION:

The request to amend the Urban Growth Boundary (UGB) to take in approximately 20 acres is hereby approved with a limited use overlay which limits uses to light industrial uses (as described in Yamhill County Zoning ordinance §702). The property shall be designated on the Yamhill County comprehensive plan map as "Future Urbanizable" land. In addition, the County adopts the Yamhill population projection of 1,390 by the year 2028.

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BO.09-769

EXHIBIT MAP FOR ORDINANCE NO. 847
PLAN AMENDMENT
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
November 4, 2009
FOR A COMPREHENSIVE PLAN AMENDMENT FROM
AGRICULTURE/FORESTRY LARGE HOLDING
TO
FUTURE URBANIZABLE
AND TO ADOPT A LIMITED USE OVERLAY ZONE
TO LIMIT THE USE TO LIGHT INDUSTRIAL



CHANGE APPLIES TO TAX LOTS 3403-1400 AND A PORTION OF 3404AD-907 AS IDENTIFIED ABOVE.
APPROXIMATE SCALE - 1 INCH = 200 FEET

B.O. 09-769
Ordinance 847
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**Yamhill County Dept
of Planning & Development**
525 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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