



Oregon

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October 23, 2009



TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Gary Fish, Willamette Valley Regional Representative
Darren Nichols, Community Services Division Manager

SUBJECT: **Agenda Item 8, November 5-6, 2009 LCDC Meeting**

YAMHILL COUNTY ZONE CHANGE EFU MINIMUM LOT SIZE APPROVAL

I. AGENDA ITEM SUMMARY

The Yamhill County zoning ordinance and zoning map provide for a variety of minimum lot sizes within their exclusive farm use (EFU) and agriculture/forestry zones. State law (ORS 215.780) provides that the minimum must be 80 acres unless the Land Conservation and Development Commission approves a smaller minimum based on findings that the smaller lot size is consistent with the legislative policy to preserve farm land in large blocks, and with applicable statewide planning goals (usually Goal 3). In the 1990s, following enactment of HB 3661 by the Oregon legislature, Yamhill County sought LCDC approval for a smaller lot size on EFU lands in the county. LCDC did not approve the request, but did allow the county to amend its zoning code to allow a smaller lot size in areas of 160 acres or more on a case-by-case showing of compliance with the statutory standard and with the county code. The code requires LCDC approval of the request prior to final county action.

The Yamhill County Planning Commission recommended conditional approval of a zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use) for 51 acres of a 131-acre property near the town of Yamhill. The county's action is now before LCDC for consideration.

A. Type of Action and Commission Role

The commission will review the county action and issue a decision following procedures as agreed to with the county and the property owner. These procedures are generally modeled on the procedures for acknowledgment review (the form of the original LCDC procedure for review of the county's "go below" code). If the commission approves the amendment, the matter returns to the county for final action pursuant to Subsection 1208.03(F) of the Yamhill County Zoning Ordinance.

B. Staff Contact Information

For information on this agenda item, please contact Gary Fish, Willamette Valley Regional Representative, at (503) 373-0050 extension 254, or gary.fish@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

The department recommends that the commission deny the requested zone change from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm Use for the reasons set forth in this report.

III. BACKGROUND

A. History of Action

Yamhill County received an application for a zone change on a 131.5-acre tract from EF-80 to EF-40 from Laurent Montalieu, dated May 22, 2009 (Attachment A). The county sent the required 45-day notice of the proposal to the Department of Land Conservation and Development (DLCD or “the department”) pursuant to ORS 197.610. The department received the notice on June 12, 2009, 27 days before the first evidentiary hearing at the Yamhill County Planning Commission on July 9, 2009. DLCD did not participate or comment on the application in the proceedings before the Planning Commission. No hearing has been held before the county commission, and no final written decision has been adopted by the county.

The Yamhill County Planning Commission considered the zone change request on July 9, 2009. After the public hearing, the planning commission recommended conditional approval of the requested zone change from EF-80 to EF-40 by a vote of 5-0, with one abstention. That decision was transmitted to the department and received on August 11, 2009. Procedurally, there is only a recommendation of conditional approval from the county planning commission at this time, in the form of planning commission minutes.¹ Although there is a county staff report, that report does not find compliance with all applicable county criteria, and there is no showing that the planning commission adopted the staff report as findings. It appears from the county record transmitted to the department that no parties appeared before the planning commission in opposition to the request (or in support of it).

B. Substantive Issues

The commission must decide whether the requested zone change from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm Use complies with the applicable county code, and ORS 215.780(2)(A), which in turn incorporates statewide land use planning Goal 3, and the state’s agriculture land use policy as expressed in ORS 215.243.

¹ The Yamhill County code (Section 1208.03(F)(2)) requires that “After conditional approval by Yamhill County, the application, *county findings, order of conditional approval* (emphasis added) and a request for commission action shall be referred to the Department of Land Conservation and Development”. The memo from the county dated August 7, 2009, referring the case to LCDC notes that the package includes the planning commission minutes that note the conditional approval, the application, the findings (in the form of a staff report), and the order of conditional approval. There is, in fact, no order of conditional approval from the Yamhill County Board of Commissioners as they have not yet heard the case, (nor, as indicated above, did the planning commission adopt the staff report as its findings (and the staff report does not contain findings on all criteria).

IV. REVIEW CRITERIA AND PROCEDURES

A. Decision-Making Criteria

The first relevant criterion is found in ORS 215.780 (2)(a), which provides:

- (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section [80 acres] in any of the following circumstances:
 - (a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

* * *

ORS 215.243 provides:

The Legislative Assembly finds and declares that:

- (1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.
- (2) The preservation 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.
- (3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.
- (4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

The second criterion is statewide land use planning Goal 3, "Agricultural Lands." Goal 3 is: "To preserve and maintain agricultural lands." Goal 3 also states, "If a county proposes a minimum lot or parcel size less than 80 acres...the minimum shall be appropriate to maintain the existing commercial agricultural enterprise within the area..."

The third set of criteria are contained in Yamhill County's acknowledged zoning ordinance. These are found in Section 1208.03 of the Yamhill County Zoning Ordinance (YCZO) as follows:

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 [emphasis added] 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. * * * [not applicable]
- 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]

B. Procedural Requirements

This proceeding is in response to a unique provision that has previously been employed only once, in 2005. The applicant and the department have agreed to conduct the hearing consistent

with the procedures for acknowledgement in ORS 197.251(2) to (4), except that new evidence will be allowed. The commission will provide opportunity for Yamhill County and the property owner/applicant to testify on the matter. As noted above, no other person appeared before the Yamhill County Planning Commission. If LCDC approves the request, it would still need to be heard before the County Board of Commissioners (which could hear testimony from other parties – a complication caused by the county’s failure to have the Board consider the application prior to forwarding it to LCDC).

C. The Record of this Case

The county’s record consists of a package transmitted to the department on August 7, 2009 by Ken Friday. The application package for Yamhill County application Z-01-09 (Laurent Montalieu’s request to rezone from EF-80 to EF-40) includes a transmittal memo from Ken Friday, Yamhill County Planning Division Manager, the county staff report to the planning commission, planning commission minutes, the rezone application to Yamhill County, and the prior denial of a partition application for the same property (Attachment A). The record also includes materials relating to the history of Yamhill County’s periodic review and section 1208.03 of the Yamhill County Zoning Ordinance.

V. ANALYSIS

A. Yamhill County Zoning Ordinance

The county adopted findings addressing the criteria in YCZO 1208.03 A through D (the criteria are in subsection IV.A of this report and the findings are in Attachment A). While these findings are not extensive, the department finds that, in the context of the record as a whole, they demonstrate compliance with the applicable criteria in the county’s zoning ordinance, except that subsection 1208.03.C that requires “the proposed amendment shall result in an area of at least 160 contiguous acres *with the requested designation*, including adjacent land” (emphasis added).

The county planning commission interpreted the “requested designation” to be the broader comprehensive plan designation and overall zoning of EFU, and not the EF-40 designation requested by the applicant. Under the county’s interpretation, the requirement for 160 contiguous acres would always be met so long as at least 160 acres including the subject property and contiguous adjacent lands are planned and zoned for Exclusive Farm Use. Yamhill County has 3 EFU zoning designations: EF-80, EF-40 and EF-20. In this case, the proposal is to rezone a 51-acre portion of the 131-acre property from EF-80 to EF-40. The remainder of the parcel, and adjacent lands would remain zoned EF-80.

The purpose of the 160-acre minimum area is addressed in the department’s Periodic Review Report for Yamhill County, dated 5/27/94 (and included in Attachment B). That report states:

“Compliance with the minimum lot size standards of Goals 3 and 4 is not determined through a general analysis that a particular minimum lot size complies with these goals for any part of a county. Rather, the demonstration of compliance requires a showing of how the proposed minimum will actually comply with the goal standard for specific ‘areas’ [emphasis in the original]. The analysis requires a review of existing and proposed parcel sizes and whether certain lands and soils can continue to be managed for

commercial resource purposes under a specific proposed minimum lot size. This can only be determined by a review of how a particular minimum will actually work (allow new parcels and affect commercial resource uses) in a specific area. It is inconsistent with ORS 215.780 to allow additional areas to be designated with a minimum lot size less than 80 acres without the commission's approval. To comply, Yamhill County must either:

1. Amend its plan policies and zoning code to provide for the commission's review and approval of a plan amendment involving the change of a minimum lot size for properties in a specific area to a different minimum lot size less than 80 acres; or
2. Amend the plan and zoning code to include specific clear and objective criteria which will demonstrate to the commission that by satisfying these criteria only areas that comply with the requirements set forth in ORS 215.780(2) can be redesignated."

DLCD Periodic Review Report, at page 15 (5/27/94).

Based on the text of the county zoning code, and the above history, it appears to the department that the clause "the proposed amendment shall result in an area of at least 160 contiguous acres *with the requested designation*, including adjacent land" refers to the area where the zoning is proposed to be amended in terms of minimum lot size, along with any adjacent area that already has the minimum lot size being proposed. The county's construction of this clause to include all lands with any type of EFU zoning would render the phrase virtually without meaning, as the only lands that would not meet the 160-acre requirement would be isolated islands of EFU land in the midst of non-EFU zoning, a situation that is not present except in a few places in the county. Further, the introductory paragraph of the relevant code section states, in part: "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," and the request here falls under the second part of this sentence. In this context, the only "designation" being requested is the minimum lot size of 40 acres. To interpret that YCZO 1208.03.C applies to the zone but not the minimum lot size renders the provision meaningless.

Therefore, the department finds that at least 160 acres of contiguous EF-40 zoned land (subject property and adjacent land) must result to satisfy YCZO 1208.03.C. This is consistent with what we believe is the intent of the LCDC periodic review order regarding the lower minimum lot size option for EFU zoning in Yamhill County.²

² After many years of discussion in periodic review, Yamhill County expressed a firm desire to maintain 20- and 40-acre minimum lot sizes for EFU zoning, in addition to the 80-acre minimum lot size required by statute. For many years prior to 1993, the county had, in fact, had such minimum lot sizes for EFU. Given the nature of the discussion, it is apparent from the periodic review records and the options presented to the county in an LCDC periodic review order in 1994 that the commission wanted to ensure that spot zoning of farm land to 20- and 40-acre minimum lot sizes in EFU did not take place. Therefore, we believe that the current county interpretation of the 160-acre requirement for the "requested designation" to be just the EFU comprehensive plan and general zoning designation of EFU is not consistent with the LCDC's intent in the 1997 order acknowledging the county's comprehensive plan

The amendment results in 51 acres of the requested zoning designation, EF-40. The adjacent land, while zoned EFU, carries a minimum lot size of 80 acres. Therefore, the proposed rezone does not comply with the requirement for 160 acres or more of the requested zoning designation, EF-40.

B. ORS 215.780

The statute requires that the proposed minimum lot size comply with the state agricultural land use policy in ORS 215.243 and Goal 3.

The agricultural land use policy (see subsection IV.A of this report) is addressed in the county's conditional approval (Attachment A). The conditional approval does not recite findings, but rather largely incorporates the justification provided by the applicant and the applicant's attorney (Attachment A). Goal 3 is not addressed in and of itself.

Nevertheless, the applicant provided evidence (and plans to provide additional evidence) that the proposed 40-acre lot size is appropriate for the continuation of the existing commercial agricultural enterprise in the area. Specifically, the applicant has shown that 40 acres is a reasonable minimum lot size for production of wine grapes, the predominant agricultural use in this area. The specific land is suitable for (and partially planted to) wine grape production, and the record includes testimony and written evidence that 40-acre parcels are suitable for commercial vineyard use. Information regarding parcel sizes in the area addresses the Goal 3 standard that the minimum lot size be appropriate to maintain the commercial agricultural enterprise in the area.

ORS 215.243 encourages the preservation of agricultural land in large blocks. However, when read together with 215.780(2), in this specific context, smaller lot sizes are allowed if shown to be consistent with the existing commercial agricultural enterprise. The department has included a map of the existing lot sizes in the surrounding area, showing that a 40-acre size is typical. As a result, the department finds that this criterion is met.

The findings adopted by the county are not extensive, but the department finds the evidence in the record includes information that adequately demonstrates the request is consistent with ORS 215.243 and Goal 3.

VI. COMMISSION OPTIONS

1. Approve the requested zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use);
2. Deny the requested zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use);

and zoning and ending periodic review, or with the overall context in which the 160-acre requirement in subsection 1208.03(C) of the county code must be read.

3. Continue the hearing to provide the applicant the opportunity to supplement the record, and subsequently approve or deny the request; or
4. Remand the proceeding to the county with specific direction regarding how to make the proposal conform to ORS 215.780(2) and the applicable county zoning ordinance.

VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

The department recommends that the commission adopt option 2 above, to deny the request.

A. Proposed motion:

I move to deny the zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use) for 51 acres as conditionally approved by the Yamhill County Planning Commission.

B. Alternative motion:

I move to remand the proposed zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use) to Yamhill County, with specific direction to

C. I move to approve the proposed zone change from EF-80 (Exclusive Farm Use) to EF-40 (Exclusive Farm Use) for 51 acres, as conditionally approved by the Yamhill County Planning Commission.

ATTACHMENTS

- A. Application package for Yamhill County application No. Z-01-09 (Laurent Montalieu's request to rezone from EF-80 to EF-40): including transmittal memo from Ken Friday, Yamhill County Planning Division Manager, county staff report to the planning commission, planning commission minutes, and the rezone application to Yamhill County (Attachment A)
- B. Periodic Review history for county zoning ordinance 1208.3, and map of surrounding area. (Attachment B)

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMinnville, Oregon 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY 1-800-735-2900 • Internet Address: <http://www.co.yamhill.or.us/plan/>

August 7, 2009

MEMORANDUM

To: Gary Fish, Department of Land Conservation and Development

From: Ken Friday, Planning Division Manager

Re: **Z-01-09 (Laurent Montalieu's request to rezone from EF-80 to EF-40)**

Our office has a request to rezone 51 acres from EF-80 Exclusive Farm use to EF-40 Exclusive Farm use. The request was reviewed by our Planning Commission on July 9, 2009 and granted conditional approval by a vote of 5-0 with one abstention. Section 1208.03(F) of the Yamhill County Zoning Ordinance lists the following requirements when the minimum lot size of any parcel in the exclusive farm use zone is being reduced:

- 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. (Underline added)
 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.

Please consider this our request for Commission action on this land use application. Attached are the minutes which note the conditional approval, the application, the findings and order of conditional approval. Please let me know if you need anything else in order for this to go before the Commission at their September meeting.

STAFF REPORT
YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

HEARING DATE: July 9, 2009

DOCKET NO.: Z-01-09

REQUEST: Zone change from EF-80 Exclusive Farm use to EF-40 Exclusive Farm use.

APPLICANT: Laurent Montalieu

TAX LOT: 3401-1000

LOCATION: 17090 Woodland Loop Road, Yamhill, Oregon.

ZONE: EF-80 Exclusive Farm use

PARCEL SIZE: 131.5 acres

CRITERIA: Sections 402 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

COMMENTS: *Watermaster* - No response as of the writing of this staff report.
Yamhill County Public Works - No response as of the writing of this staff report.
Yamhill RFD - No response as of the writing of this staff report.
SWCD - No response as of the writing of this staff report.
DLCD - No response as of the writing of this staff report.

EXHIBITS:

- I Application
- II Public Notice
- III Comments received
- IV Partition Application - P-01-09

FINDINGS:

A. Background Facts

1. Lot size: 131.5 acres.
2. Access: Woodland Loop Road.
3. On Site Land Use: The property has uneven topography, but it generally slopes up to the east. The elevation varies from 220 feet in the northwest corner to 560 feet in the northeast corner. The entire property has approximately 57 acres planted to vineyard. The property contains a residence and a winery that is currently under construction. The

Docket Z-01-09
Laurent Montalieu
Page 2

applicant has previously requested the land to be divided into lots of 80 and 51.5 acres. This application has been denied by the Planning Director and is under appeal to the Board of Commissioners. If the property were divided then the proposed 80-acre parcel would contain a dwelling and approximately 22-acres of planted vineyard. Parcel 2, proposed to be 51.5 acres, would contain the winery and approximately 35 acres of planted vineyard.

4. Surrounding Zoning and Land Use: The area is zoned EF-80. Adjacent lots range in size from 20 to 167 acres. Most of the parcels contain single family residences.
5. Soils: The parcel appears to have a wide variety of soil types. The complete list of soils can be found in the file. The soils chart shows 59.28% is Willakenzie silty clay loam.
6. Water: Provided by on-site wells.
7. Sewage Disposal: Provided by on-site subsurface septic systems.
8. Taxes: The assessor's office indicated that all but one acre was receiving farm deferral.
9. Previous Actions: A partition was approved in 1999 through P-19-99. A farm dwelling was approved in the year 2000 through Docket FD-08-00 and a lot line adjustment was approved through L-10-08. Finally, a site design review approved a winery in 2008 through SDR-13-08. The applicant applied for a partition to create parcels of 51.5 and 80 acres (Docket P-01-09 - see attached). The applicant needed to create a parcel smaller than the minimum lot size for financing purposes.¹ The Planning Director denied the request because the proposed lot sizes did not (and could not) satisfy the 80-acre minimum lot size. The applicant appealed the denial to the Board of Commissioners. He was informed by the Board that they could not approve the request unless the zoning was changed. The applicant then submitted this request.

B. Ordinance Provisions and Analysis

1. The decision on the requested zone change will be based on whether 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 Agriculture/Forestry Zones.

¹In order to put up a portion of land as collateral on a loan, it typically requires a "mortgage partition." This action reserves a portion of land for mortgage purposes, but it does not create a separate parcel unless the loan is foreclosed upon. The applicant has indicated that his lending institution requires the parcel to be separate and will not allow a loan on a "mortgage partition." Therefore, he has submitted this request.

Docket Z-01-09
Laurent Montalieu
Page 3

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.*

Docket Z-01-09
Laurent Montalieu
Page 4

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.*

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

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

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

Over 1/3 of the property is in intensive farm use. The 2005 air photo shows the eastern end of the property has some areas of forest use. Both the EF-40 and EF-80 zones allow for farm uses. The applicant is not proposing an urban use.

Section II.A.1 Policy b reads:

Yamhill County shall provide for the protection of farmland in large blocks through minimum lot sizes of 20, 40, and 80 acres, as appropriate, on the Comprehensive Plan and official zoning maps. Any proposal to reduce the minimum lot size on a farm or farm/forest parcel shall be shown to be appropriate to maintain the existing commercial agricultural enterprise in the area.

The original enactment of the Yamhill County minimum lot size for agricultural land after the 1973 passage of Senate Bill 100 was to have a 20 and 40 acre minimum lot size. The County defended this minimum lot size until the 1993 passage of House Bill 3661, which mandated an 80-acre minimum lot size in western Oregon. The 80-acre minimum lot size came with a process to obtain approval from LCDC for certain areas to have a reduced minimum lot size. Due to this system, the State will weigh in on the appropriateness of a smaller minimum lot size for the reasons given by the applicant. However, to get to the State, the applicant needs to receive approval from the County. In this case, the applicant is in the middle of constructing a large winery on the western end of the property. The winery is quite literally in the middle of construction. Due to the historic downturn in the economy, the applicant needs to obtain additional financing to complete the winery. As noted previously, the solution to this was for the applicant to put up a portion of the property as collateral and do what is called a "mortgage partition." The applicant has indicated that the lending institutions he has approached will no longer accept this method. He has asserted that they will only accept the land as collateral if the property is partitioned. This leads to three interesting policy questions. Is a reduction in the minimum lot size preserving agricultural uses in the area by allowing a winery to be completed? Is the financing of an agricultural processing facility reason enough to reduce the protection of agricultural lands in large blocks? Will this set a precedence for

Docket Z-01-09
Laurent Montalieu
Page 5

other similar applications?

Section II.A.1 Policy k reads:

Any Comprehensive Plan or zone map amendment that would reduce the minimum lot size on property within an Exclusive Farm Use or Agriculture/Forestry designation 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 zoning ordinance shall provide a process for conditional approval by Yamhill County, concurrence by the Land Conservation and Development Commission and final approval by Yamhill County in applications subject to this subsection.

The above policy is enacted through the requirements in 1208.03(F) and is discussed below in Finding B.7.

Section II.A.2, Goal reads:

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

According to the Yamhill County Soil Survey, the majority of the parcel contains Willakenzie silty clay loam. This soil type is Class III and IV high-value farmland. The zone would remain as exclusive farm use, with simply a smaller minimum lot size. The current exclusive farm use designation is suitable given the use and agricultural soil capabilities.

3. Regarding criterion (B), the proposed designation needs to be shown to be appropriate for the existing or intended use of the property. The existing use is 57 acres of vineyard. The proposed designation of Exclusive Farm use would not change. Only the minimum lot size would be reduced if this application were approved. The appropriateness of the 40-acre minimum lot size is discussed in Finding B.2 above and Finding B.5 below.
4. Regarding criterion (C), the subject parcel is 131.5. While it would result in 131.5 acres of EF-40 zone, the designation of Exclusive Farm use (as opposed to Agriculture/Forestry or Forestry use) would remain on the subject property and in the surrounding area. The designation of Exclusive Farm use extends out for hundreds of acres beyond the subject parcel. Therefore, the request is consistent with criterion (C).
5. Regarding criterion (D), the applicant must demonstrate that the new minimum lot size shall be appropriate for maintaining the existing commercial agricultural enterprise in the area. The applicant has stated that the 35 acres of vineyard that would exist on the proposed 51.5 acre lot would have a yearly gross sales of \$350,000. This would be considered to be a parcel large enough to maintain the existing commercial enterprise in the area. However, while we believe this to be a factual statement, there is no evidence

Docket Z-01-09
Laurent Montalieu
Page 6

yet supporting the applicant's assertion regarding the yearly gross sales. In addition, while the applicant has expressed no interest in dividing off the remaining 80-acre site, the applicant needs to submit evidence showing that the other two potential lots that could be made from the remaining 80-acre lot either are, or could be, put to a commercial scale of farm use, or somehow limit further division of the remaining 80-acre property.

6. Criterion 1208.03(E) does not apply as the proposed changes are neither within or going to an Agriculture/Forestry designation
7. Criterion 1203.08(F) requires that when the minimum lot size is reduced the applicant is required to demonstrate that it satisfies the requirements of Section 1208.03(F). The request would reduce the minimum lot size on the property from 80 to 40 acres. Section 1208.03(F) states:

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.*

Any approval would be forwarded to the Land Conservation and Development Commission (LCDC) for final approval.

LCDC and their staff, DLCD, required the above language to be adopted to make sure that Yamhill County did not, over time, reduce the minimum lot size in those areas that were mandated to be 80-acres. ORS 215.780 contains the provisions for minimum lot or parcel sizes. It states in part that:

215.780 Minimum lot or parcel sizes; land division to establish a dwelling; recordation. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

Docket Z-01-09
Laurent Montalieu
Page 7

(a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

(b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

(c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

ORS 215.243 relates to the preservation of agricultural lands. ORS 215.243 states:

215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation 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.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

The applicant will need to demonstrate that the proposed parcel size of 40 acres satisfies the above statutes and the applicable statewide planning goals. One of the main intents of these statutes is to assure that the resulting lot size is appropriate for the continuation of the commercial farm operations in the area. The applicant is aware that it would benefit their application if they can present arguments to support a 40-acre minimum lot size so this evidence is expected to be presented at the Planning Commission hearing.

CONCLUSIONS FOR APPROVAL:

Docket Z-01-09
Laurent Montalieu
Page 8

1. The request is for a zone change from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm Use. Total area proposed to be rezoned is 131.5 acres.
2. The request complies with criteria listed in Section 1208.03 of the Yamhill County Zoning Ordinance.
3. The proposed change will continue to allow the agricultural use of the property.
4. The proposed designation is appropriate for the intended use of the property.

CONCLUSIONS FOR DENIAL:

1. The applicant has not shown that the proposed amendment complies with the goals, policies, and other applicable provisions of the comprehensive plan.
2. The applicant has not demonstrated that the resulting lots would be appropriate for maintaining the existing commercial agricultural enterprise in the area.

STAFF RECOMMENDATION:

A staff recommendation will be given at the hearing after the receipt of additional testimony.

MB:kf:sa

I Application

YAMHILL COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
LAND USE APPLICATION

525 NE 4th Street, McMinnville, OR 97128 • Tel: 503-434-7516 • Fax: 503-434-7544

Docket 2-01-09
 Date 5/22/09
 Rec'd By SA
 Receipt # 75104
 Fee \$ 1157

APPLICANT			LEGAL OWNER (IF DIFFERENT)		
Last Name	First	MI	Last Name	First	MI
<u>MONTALIEU</u>	<u>LAURENT</u>	<u>D.</u>			
Mailing Address (Street or PO Box)			Mailing Address (Street or PO Box)		
<u>Po Box 760</u>					
City	State	Zip	City	State	Zip
<u>Yamhill</u>	<u>OR</u>	<u>97148</u>			
Telephone			Telephone		
<u>503 577 8716</u>					
email: <u>laurent@nwwineco.com</u>					
If the applicant is not the legal owner, state interest in property:					

PROPERTY INFORMATION

Tax Lot(s) 3461-1000 Zone EF 80

Size of Tract (include all adjacent tax lots) 131.5 Acres (51 Acres to be rezoned EF40)

1. TYPE OF APPLICATION (what is requested?): PLAN ZONE CHANGE FROM EF 80 to EF 40

2. JUSTIFICATION FOR REQUEST YCZO Section(s): _____

A Planner will assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided.

3. Present use of property: VINEYARDS = 57 Acres, WINERY AND ONE HOME SITE

4. Please list the type of buildings that are currently on the property (i.e. manufactured home, pole building, agricultural barn, etc.):
HOME, WINERY, POLE BARN

5. Is there a septic system on the property? Yes [] No

6. How will water be provided? Well [] City [] Other _____

7. How is the property accessed? WOODLAND LOOP

Land Use Application
Page 2 of 2

8. To your knowledge, do any of the following natural hazards exist on the property?

- Floodplain
- Areas of erosion
- Steep slopes
- Fish or wildlife habitat
- Soil limitations for building or septic

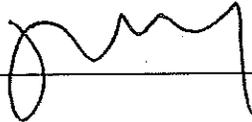
THE APPLICANT MUST SUBMIT:

1. Completed application form, signed by the applicant and property owner (if different). The owner's signature must be notarized.
2. Site plan drawn to scale showing property lines, location and size of all existing buildings, existing and proposed access roads, and location and size of any proposed new buildings.
3. Written justification of how the application complies with the approval criteria. Attach additional sheets to this form.
4. Filing fee (make check payable to Yamhill County).

NOTE: Fees are not transferrable or refundable.

I hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of my knowledge. I understand that issuance of an approval based on this application will not excuse me from complying with other effective ordinances and laws regulating the use of the land and buildings.

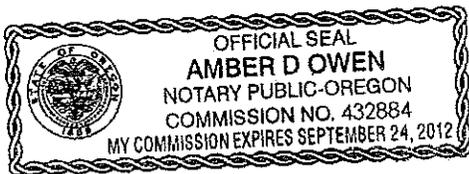
I hereby grant permission for and consent to Yamhill County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.

Applicant's signature  Date 5.20.09

Property owner's signature (if different) _____ Date _____

State of Oregon
County of Yamhill

Signed before me on this 20 day of May 20 09
by Laurent Montalieu



Amber D Owen
Notary Public for Oregon
My Commission expires Sept. 24 2012

Yamhill County

May 20, 2009

Department of Planning and Development

525 NE Fourth Street

McMinnville, Oregon 97128

We write this letter in hopes that collectively you can assist in a matter that has, for us, become most pressing. In May of 2008, our new business entity Grand Cru Estates, purchased a 50 acre lot from Georgia Woods. We did a property line adjustment and added the parcel to the existing 80 acres we personally live on and farm. The entire property became one lot located at 17100 NE Woodland Road, essentially just off of the corner of Woodland Loop and Highway 240.

At the time of purchasing this lot, we had recently formed a new partnership that consisted of our friends, the Bailey, our business, Soléna Cellars, and ourselves personally. This partnership was aware of the rules and regulations of the rural farm zoning EF 80, and as the rules mirror our own beliefs, we felt we would have no problems in respecting them. In the fall 2008, we planted 35 acres of the 50 and began construction on a winery building that would complement the land, saving the best farm land for the vineyard that would have a life of a minimum of forty years. However, when we purchased the property we were assured that the lot could be partitioned off for the sake of obtaining loans through the usual banking institutions. At the time, we were reassured by the partition, but did not think a loan would be necessary. The partnership held stocks that would allow us to complete the planting of the vineyard and the construction of the new winery facility. With our funding in place, we set out to bring our farming enterprise into fruition.

Then the unthinkable happened. The stocks plummeted to a point so low that it would be impossible to sell them. We had to seek help from outside financial institutions. When we approached our bankers, we became shocked at how difficult it was to obtain a loan. The loans were denied not because the business plan wasn't sound, or that we hadn't already developed the project far enough along to guarantee the loan we needed, but for the simple reason that the land was not its own tax lot. The mortgage partition for financial institutions is not enough for the banks to feel secure enough to give us a loan. Our long time lender, Farm Credit, has stated that the legal department won't loan us the money based on a partition. It HAS to be its own tax lot. We were really counting on this partition to provide us the avenue for which we can continue our project, but it has proven to be something the banks DO NOT take into consideration when making a loan decision. It is essentially meaningless. We believe it was the county intent to help farmers with this device, but it just does not work anymore....

For us, this is devastating. Our goals and our commitment to honor the rules of zoning have been proven by the amount of capital we have invested in planting the 35 acres of vines and beginning the building of a winery. The annual revenue of the 35 acres will yield a gross profit of 350,000 dollars that complies and succeeds the 80,000 dollars of revenue called for by the zoning laws. The vines are a long term crop with a life of forty years. The 3,400,000 dollar winery facility we are building takes into

consideration the environment with its use of solar power system that will provide 50 kilowatts of power resulting in a net zero use of other power sources. The business would require 6 to 7 full time vineyard personnel and 7 full time employees in the winery with the addition of several part time employees. The plans call for organic vegetable gardens and water collecting measures to further lessen the burden on the land. The other 20 acres of land are currently being utilized for raising goats and sheep. Our personal 80 acres, where we reside and raise our family, adjacent on the north side, and has 22 acres planted in vines. Additionally we have leased with an option to buy an additional 22 acres of land adjacent on the south side of the property, and recently planted it in clover and sunflowers. Our goal in leasing the additional land was to protect the hillside down to the road to guarantee its use as farm land. Our vision of our company is not only to protect the land for agriculture use but to use the land in a way that protects the quality of the land through use of biodynamic practices. In short, we are doing everything in our power to honor the intent of the EF 80 zoning and to create a lasting business that would be beneficial for our community.

Yet, now it appears that all of our efforts to protect the farm lands of Yamhill County and to create a sustainable vineyard, farm, and winery have put us in between the proverbial "rock and a hard place". Our partnership doesn't have the funds to continue our project without the assistance of outside financing. The banks won't loan us the money, because the 50 acres are not a separate tax lot. The county provides us with a partition we thought would be enough to obtain loans, but in this economy it is no longer a viable option for the banks. We can't afford to buy the additional 22 acres we have leased and even if we could it would not equal the eighty acres required. Our unfinished building is highly visible from highway 240. To have it remain in this state, would not only be unfortunate for us, but would also be a loss of a source of employment for a few individuals, and an eyesore on our beautiful region. We have run out of avenues to pursue to complete our project under the EF 80 regulations.

Now we turn to you, and ask for your careful consideration in what we are about to propose. We are asking for economic relief in the form of a change of zone from EF 80 to EF 40. From our review this application complies with all review criteria stipulated in 1208.03 for usage of farm land.

We thank you for your time in this matter and hope for your understanding and assistance!

Sincerely,



Laurent Montalieu

II Public Notice

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE 4th STREET • McMinnville, OREGON 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY: (800) 735-2900 • Internet Address: <http://www.co.yamhill.or.us/plan/>

NOTICE OF PUBLIC HEARING

July 9, 2009, 7:00 pm
Room 32, Yamhill County Courthouse
535 East Fifth Street, McMinnville, Oregon

The YAMHILL COUNTY PLANNING COMMISSION will hold a public hearing at the above time and place to consider the request described below. The request may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment or may appear and testify at the hearing. All issues and concerns should be raised for consideration by the Planning Commission because an appeal to the Board of Commissioners may be confined to the record of the Planning Commission proceeding. Failure to raise an issue, either in person or in writing, or failure to provide statements or evidence sufficient to allow the Planning Commission and/or Board of Commissioners an opportunity to respond to the issue precludes an affected party's appeal of the decision to the Land Use Board of Appeals on that issue.

The application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection, and copies may be purchased at a reasonable cost. A staff report will be available for inspection at no cost seven days prior to the hearing, and copies will be available for purchase at a reasonable cost. For further information, contact Ken Friday at the Yamhill County Department of Planning and Development, 525 NE Fourth Street, McMinnville, 97128, or at (503) 434-7516.

DOCKET NO.: Z-01-09

REQUEST: Zone change from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm use.

APPLICANT: Laurent Montalieu

TAX LOT: 3401-1000

LOCATION: 17100 NE Woodland Loop Road, Yamhill

PARCEL SIZE: 131 acres

CRITERIA: Sections 402, 403 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLERS: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

The decision on the requested zone change will be based on whether the request complies with the review criteria found in Section 1208.03 of the Yamhill County Zoning Ordinance, as follows:

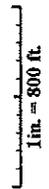
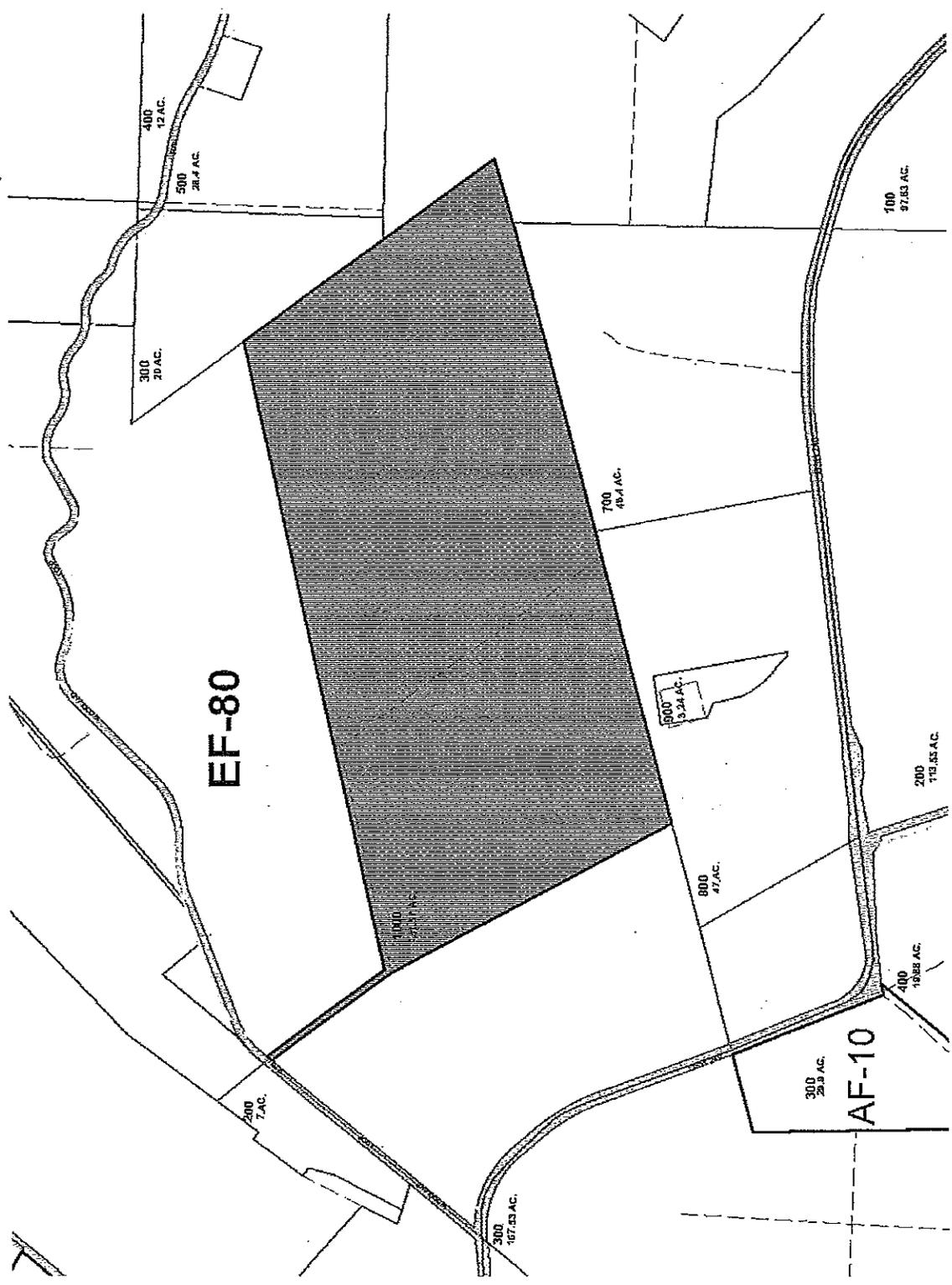
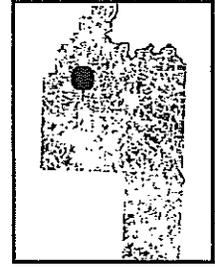
1208.03 Review Criteria for Amendments To or Within Exclusive Farm Use and Agriculture/Forestry Zones.

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.

Yamhill County Map

- County Roads
- County Roads
- State Highways
- Private Roads
- Fence Panels
- Taxlots
- right of ways
- inset lines
- inset polygons
- Taxlots History
- Zoning

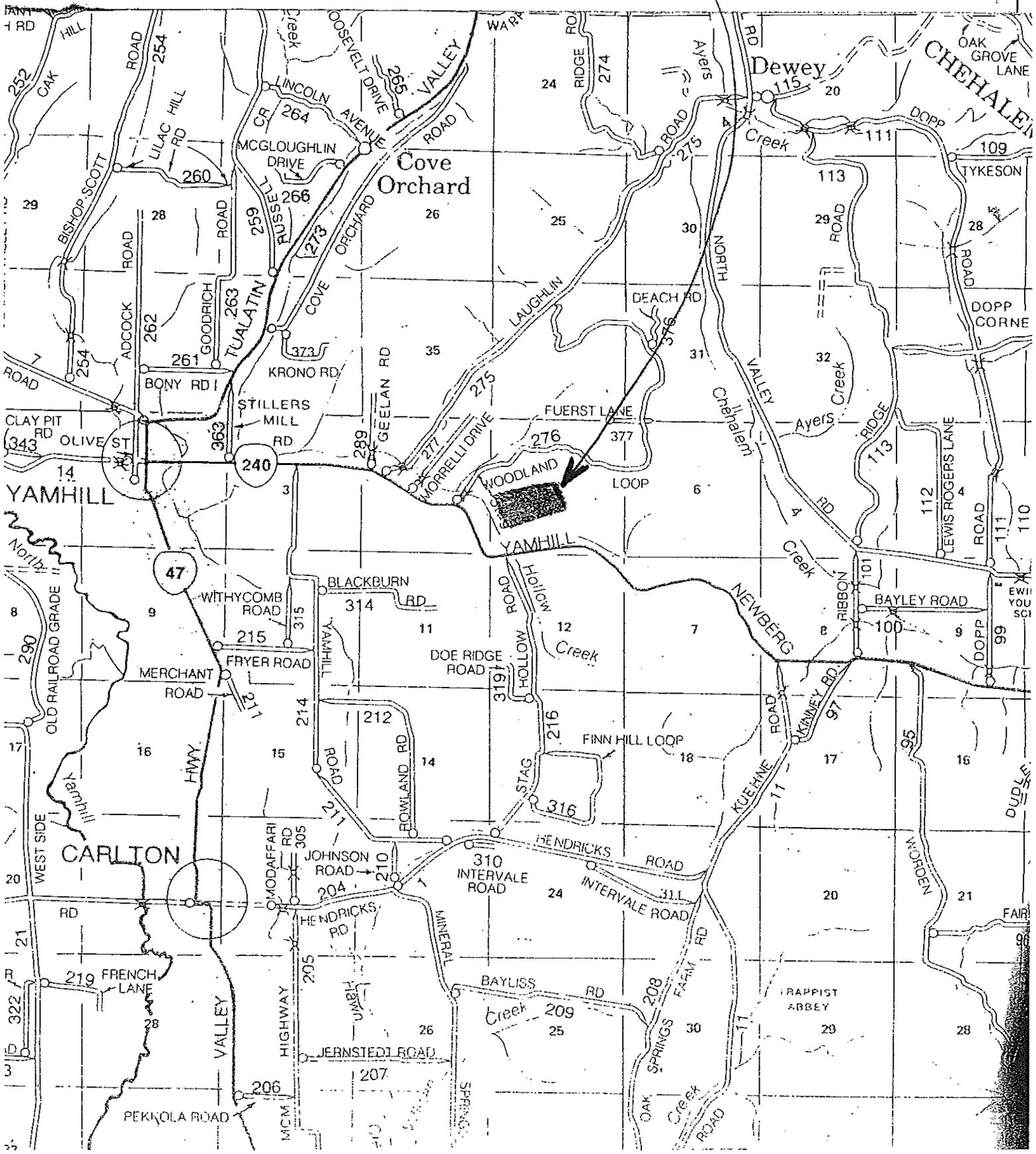


This map was produced using the Yamhill County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

VICINITY MAP



LOCATION OF PROPERTY



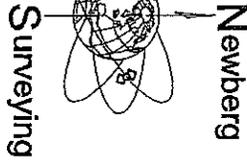
PROPOSED PARTITION MAP:

Laurent and Danielle Mortalieu

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

Narrative

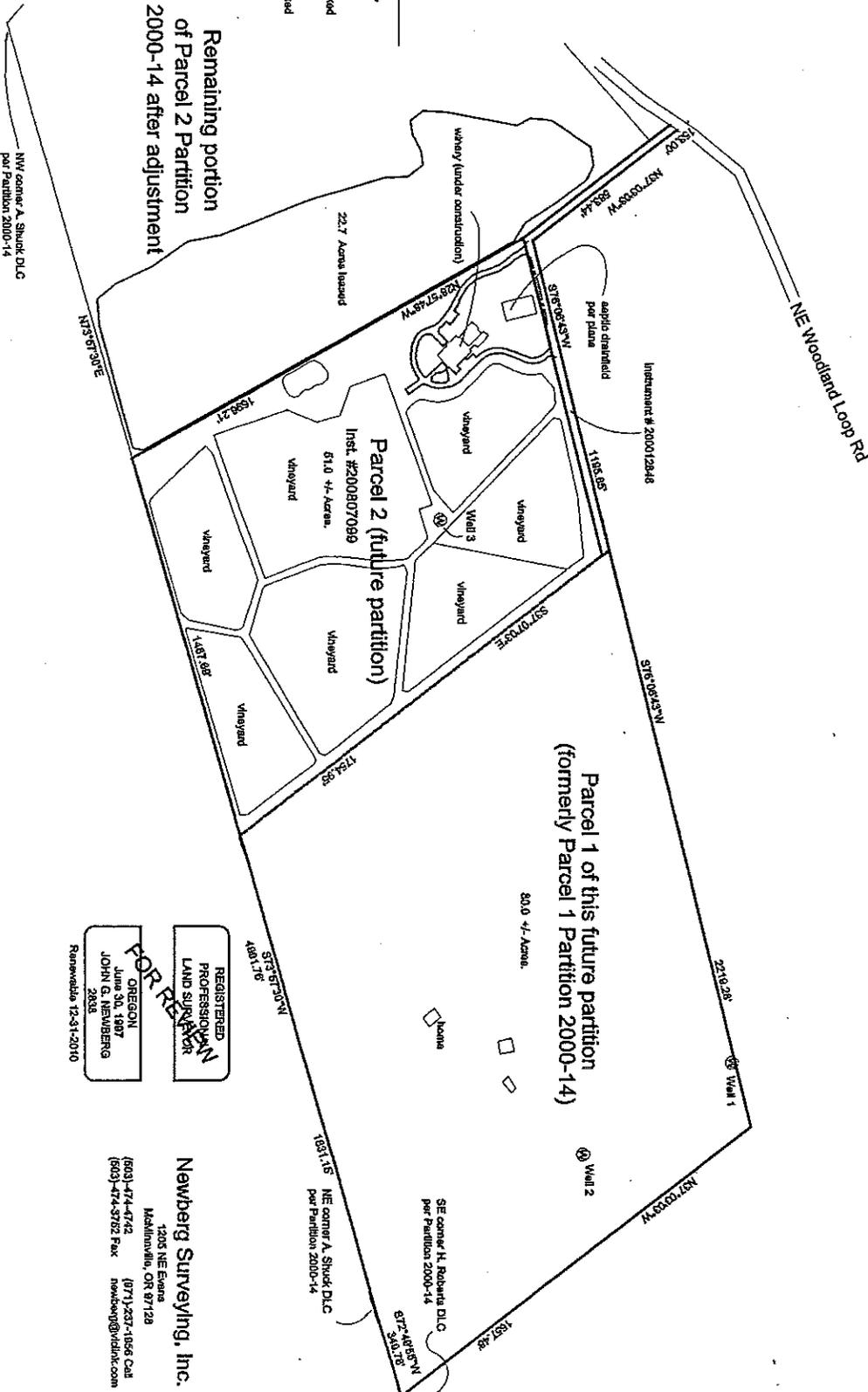
The purpose of this survey is to prepare a map for a future partition application. This map was prepared without any field verification of monument locations and is based on record dimensions per Partition Plat 2000-14, and lot line adjustments per instrument #200012946 recorded September 6, 2000, and instrument #200807089 recorded April 24, 2008. Basis of bearing is per Partition Plat 2000-14. The location shown of buildings and vineyards is per based from aerial photos and construction plans.



Legend

- = monument found, flash to 0.2" diam, in good condition unless otherwise stated. Origin stated if known.
- = 800" X 300" iron rod set with ypo marked NEWBERG LB 2835
- ⊙ = set Benchmark BPC monument marked "LS 2835" with punch mark
- ⊙ = iron pipe with brass cap as noted
- ⊙ = yellow plastic cap
- ⊙ = red plastic cap
- IR = iron rod
- IP = iron pipe
- ⊙ = data of record per
- ⊙ = control point (80-D spike)

Remaining portion
 of Parcel 2 Partition
 2000-14 after adjustment



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
JOHN G. NEWBERG
 OREGON
 June 24, 1987
 JOHN G. NEWBERG
 2835
 Renewable 12-31-2010

Newberg Surveying, Inc.
 1205 NE Essex
 Madras, OR 97128
 (503)-474-4742 (503)-474-5782 Fax
 newbev@ndlink.com

III Comments received



Three Centerpointe Drive, Suite 250
Lake Oswego, OR 97035-8617
Telephone (503) 620-8900
Facsimile (503) 620-4878

Richard A. Uffelman, Attorney at Law
Charles E. Harrell, Associate Attorney
Marcia L. Grubb, Legal Assistant

Web: www.buckley-law.com
Email: ceh@buckley-law.com

July 7, 2009

VIA EMAIL AND US MAIL

Yamhill County Planning Commission
c/o Yamhill County Planning Department
525 NE Fourth Street
McMinnville, OR 97128
Attn: Ken Friday

Re: Grand Cru Estates LLC / Tax Lot R3401-01000
Application for Quasi-Judicial Zone Map Change

Dear Ken:

As you are aware, Grand Cru Estates, LLC has retained Buckley LeChevallier P.C. to assist it with the quasi-judicial zone map change for the above property. I understand that Mr. Montalieu has submitted the Land Use Application and the filing fee. Enclosed please find the following documents to supplement the Application:

1. Land Use Application (completed, but unsigned);
2. Site Plan Map; and
3. Written justification showing compliance with approval criteria.

The Applicant may submit additional materials and testimony at the July 9 Planning Commission Hearing. Further, the Applicant is receptive to the idea of only changing the zoning for the 51 acre parcel (Parcel 2 on the map) to EF-40 and leaving the 80 acre parcel (Parcel 1 on the map) zoned as EF-80.

If you have any questions, please do not hesitate to call me.

BUCKLEY LE CHEVALLIER, P.C.
/s/ Charles Harrell

Charles E. Harrell
Enclosures
CEH/bms

YAMHILL COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
LAND USE APPLICATION

525 NE Fourth Street, McMinnville, OR 97128 • Tel: 503-434-7516 • Fax: 503-434-7544

Docket _____
 Date _____
 Rec'd By _____
 Receipt # _____
 Fee \$ _____

APPLICANT	LEGAL OWNER (IF DIFFERENT)
Grand Cru Estates, LLC	Andrus Danielle
Last Name First MI	Montalieu Laurent
2803 N.E. Orchard Avenue	Last Name First MI
Mailing Address (Street or PO Box)	P.O. Box 760
McMinnville Oregon 97128	Mailing Address (Street or PO Box)
City State Zip	Yamhill Oregon 97148
(503) 474-0799	City State Zip
Telephone	(503) 474-0799
	Telephone

If the applicant is not the legal owner, state interest in property:
 The legal owners are members of the Applicant limited liability company. Laurent Montalieu is also a Manager of the limited liability company.

PROPERTY INFORMATION

Tax Lot(s) R3401-01000 Zone Exclusive Farm Use (EF-80)
 Size of Tract (include all adjacent tax lots) 131.5 acres

1. TYPE OF APPLICATION (what is requested?): Quasi-judicial zone map change from EF-80 to EF-40.

2. JUSTIFICATION FOR REQUEST YCZO Section(s): YCZO 1208.03

A Planner will assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided.

3. Present use of property: Residential dwelling , 57 acres planted vineyard, 20 acres used for raising goats and sheep and small farming.

4. Please list the type of buildings that are currently on the property (i.e. manufactured home, pole building, agricultural barn, etc.):
Residential dwelling and two (2) agricultural out-buildings exist on property.

5. Is there a septic system on the property? Yes No

6. How will water be provided? Well City Other _____

7. How is the property accessed? Property has direct access to Woodland Loop Road.
Parcel 1 will have an access easement over Parcel 2 when the property is partitioned after zone change approval.

Land Use Application
Page 2 of 2

8. To your knowledge, do any of the following natural hazards exist on the property? **None.**

- Floodplain
- Areas of erosion
- Steep slopes
- Fish or wildlife habitat
- Soil limitations for building or septic

THE APPLICANT MUST SUBMIT:

1. Completed application form, signed by the applicant and property owner (if different). The owner's signature must be notarized.
2. Site plan drawn to scale showing property lines, location and size of all existing buildings, existing and proposed access roads, and location and size of any proposed new buildings.
3. Written justification of how the application complies with the approval criteria. Attach additional sheets to this form.
4. Filing fee (make check payable to Yamhill County).

NOTE: Fees are not transferrable or refundable.

I hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of my knowledge. I understand that issuance of an approval based on this application will not excuse me from complying with other effective ordinances and laws regulating the use of the land and buildings.

I hereby grant permission for and consent to Yamhill County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.

Applicant's signature Date

Property owner's signature (if different) Date

State of _____

County of _____

Signed before me on this_ day of _____, 20 _____,

by _____

Notary Public for Oregon
My Commission expires _____

Grand Cru Estate
Laurent Montalieu
NW Wine Co- Solena Cellars- Hyland Vineyard- Grand Cru Estate
2803 NE Orchard Ave
McMinnville, OR 97128
Tel 503 474 0799
Cell 503 577 8716
laurent@nwwineco.com
laurent@solenacellars.com
laurent@thegrandcru estates.com

Application and Project Summary

- Applicants:** Danielle Andrus and Laurent Montalieu (owners of Subject Property via Warranty Deed dated March 31, 2000, Instrument No. 200004373) and Grand Cru Estates, LLC, an Oregon limited liability company (“Applicant”)
- Address:** Attn: Laurent Montalieu
2803 N.E. Orchard Avenue
McMinnville, Oregon 97128
lauerent@thegrandcru estates.com
(503) 474-0799 – phone
- Counsel:** Charles E. Harrell
BUCKLEY LE CHEVALLIER, P.C.
Three Centerpointe Drive, Suite 250
Lake Oswego, Oregon 97035
ceh@buckley-law.com
(503) 620-8900 – phone
(503) 620-8900 – facsimile
- Property:** Yamhill County Tax Lot 3401-01000
17100 N.E. Woodland Loop Road
Yamhill, Oregon 97148
Acres: 131.57 acres (the “Subject Property”).
- Current Zone:** Exclusive Farm Use (EF-80)
- Proposed Zone:** Exclusive Farm Use (EF-40).
- Proposal:** Quasi-judicial zone map change from EF-80 to EF-40 (the “Application”).

Grand Cru Estates is a unique entrepreneurial viticultural project in Yamhill County. Located on 131.5 acres (the “Subject Property”), Grand Cru Estates includes a 50-acre vineyard planted with pinot noir grapes, a 13,000 square foot winery, gardens, and a culinary arts program

that provides cooking classes, winemaker dinners, private member events and a guest chef series. Grand Cru Estates will offer membership whose benefits will include access to the Subject Property, the ability to use the Subject Property for private events two times per year, educational seminars, and discounts on wine. Additional information on Grand Cru Estates can be found on its website at: www.thegrandcru estates.com.

This zone change request from EF-80 to EF-40 is purely economical in nature. As noted above, the Subject Property will include a vineyard and a 13,000 square foot winery. The construction and development of the winery requires commercial financing and the lender is requesting that its collateral (the winery and the underlying real property) be separate from the vineyard, and the lender is not willing to accept a mortgage lot.

Therefore, as described below, this requested zone change will allow the commercial vineyard and winery to operate at optimal efficiency and maximum financial support. In fact, without the zone change, the existing EF-80 zoning would prohibit the proposed use of the Subject Property as a winery, which is a permitted use in the zone.

Yamhill County Zoning Ordinance Section 1208.00 – Quasi-Judicial Zone District Boundary Changes

1208.01 General Requirements

A quasi-judicial zone map change is processed as follows:

A. An amendment may be initiated by the Board, the Commission, or by application of an owner of land.

B. An application for such a change by an owner of land shall be made in accordance with the Type C application procedure.

C. Such amendments shall be made only by the Board, after review and recommendation by the Commission. When the request includes a Comprehensive Plan map amendment, both the Commission and Board shall hold public hearings, pursuant to Section 1402 of this Ordinance, prior to the Board making a final decision. When the request does not include a Comprehensive Plan map amendment, the Commission shall hold a public hearing to review and make a decision on the proposed zone map amendment. The Board is not required to hold an additional public hearing, but may make a decision based upon the record of the Commission hearing. In either case, the zone map amendment shall not be final until the Board has adopted the amendment by ordinance. [Amended 7/9/98, Ord. 648]

D. Approval for a boundary change shall include findings satisfying the criteria in 1208.02 or 1208.03 as appropriate, and addressing applicable Comprehensive Plan goals and policies.

E. Changes to the applicable zoning maps shall be made and become effective upon filing with the County Clerk.

Applicant's Response: This quasi-judicial zone map change is being initiated by the owner of the affected parcel.

1208.03 Review Criteria for Amendments to or Within Exclusive Farm Use and Agriculture/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.

Applicant's Response: The Yamhill County Comprehensive Land Use Plan ("Comprehensive Plan"), Section B – Rural Area Development, provides the following goal statement: "Goal 1. To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development." The 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 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.

Comprehensive Plan Section F – Economic Development – provides that: (i) "The economy of Yamhill County is largely based upon agricultural and forestry related industries."; (ii) "Economic diversification generally results in a stronger, more stable local economy by increasing employment opportunities."; and (iii) "Yamhill County has traditionally been plagued by high levels of unemployment, but the attraction of new industries in recent years has helped to alleviate this condition. An Overall Economic Development Plan can serve as a guide to the fulfillment of the county's economic development goals and policies." The Economic Development Goal provides an intention 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."

It is certainly no secret that 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 Grand Cru Estates will bring additional income and economic growth to Yamhill County while maintaining the agricultural nature of its rural lands. The Application complies with and is consistent with the Economic Development goal and its policies.

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.

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

Applicant's Response: *Applicant is requesting to change the zoning designation for the Subject Property from EF-80 to EF-40. 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.*

Further, YCZO 402.10 C. provides that "farm use" shall mean the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

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

Applicant's Response: *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 (zoning information from Yamhill County Planning website: Yamhill County Zoning By Address*

http://www.co.yamhill.or.us/plan/planning/public/pi_zone.asp) 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, without challenge, 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 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.

Therefore, the Application complies with and meets the requirements of this subsection C.

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.

Applicant's Response: As noted herein, the proposed use for the Subject Property shall be for a winery, vineyard, gardens, culinary arts program and other vineyard/winery-related uses. The vineyard shall exist on one parcel and the winery and culinary arts program shall exist on the other parcel. As also noted herein, the primary reason for the Application is to allow the Applicant to partition the Subject Property so that the Applicant's can obtain commercial financing for the winery and use only the winery and underlying real property, and not the real property for the vineyard, as collateral for the financing.

Grand Cru Estates, once completed, shall be one of the more ambitious and larger commercial viticultural enterprises in Yamhill County. After partitioning, the smaller of the two parcels shall still be 50 acres in size. Numerous vineyards and wineries in Yamhill County and the surrounding counties exist on less than 40 acres.

The 2008 Oregon Vineyard and Winery Report (the 2008 Winery Report") is attached to this Criteria Response, and Applicant requests that it be entered into the Record for this Application. The Winery Report is prepared by the National Agricultural Statistics Service and provides intricate details on winery and vineyard production in Oregon. An examination of the facts in the Winery Report details that a minimum 40-acre lot size is more than appropriate to maintain the commercial agricultural enterprise in the area.

The Winery Report states that there are 248 vineyards in Yamhill County with 6,134 acres planted in wine grapes. Therefore, the average vineyard size in Yamhill County is 24.73 acres ($6,134 / 248 = 24.73$). There are 856 vineyards in all of Oregon, with a total of 19,300 acres in planted in wine grapes. Therefore, the average vineyard size in Oregon is 22.55 acres ($19,300 / 856 = 22.55$).

The Winery Report also provides that 9,992 tons of grapes were produced from Yamhill County's 6,134 acres, for a per-acre production of 1.63 tons per acre. Yamhill County's yield per harvested acres was 2.00 tons.

Even though the two proposed parcels will not be planted entirely in wine grapes, the approximately 20-acre vineyard that will be on the 80 acre parcel and the 35-acre vineyard that will be on the 51 acre parcel are either very close to, or exceed, the size of the average vineyard in Yamhill County and the state of Oregon.

Therefore, the Application, upon approval, shall be consistent and satisfied this requirement. A 40-acre minimum lot size is appropriate and shall be able to maintain the existing commercial agricultural enterprise in the area surrounding the Subject Property.

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.

Applicant's Response: *The current zoning designation and the proposed zoning designation are both exclusive farm use, not agriculture/forestry. Therefore, this subsection is not applicable to this Application.*

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]

Applicant's Response: *Applicant is aware that this Application is subject to review and approval by the Land Conservation and Development Commission and that any approval will be only a conditional approval until confirmation of the conditional approval is accepted by the Land Conservation and Development Commission and a final order or ordinance is issued by the Yamhill County Board of Commissioners.*

APPLICABLE STATE STATUTES.

ORS 215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation 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.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones. [1973 c.503 §1]

Applicant's Response: *As discussed in response to Yamhill County Zoning Ordinance 1208.03 D., the viticultural industry is now an important and integral part of Yamhill County and Oregon's agricultural economy. This zone change application is not contrary to the agricultural land use policy. The zone change application is necessary to efficiently allow the Applicant to develop the winery and vineyard, as the lender is requiring that the winery be located on a separate tax lot from the vineyard. The Grand Cru Estates concept will 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.*

In Meeker v. Board of Commissioners of Clatsop County, 287 Or. 665, 601 P.2d 804, 809-810 (1979), the Oregon Supreme Court found that "If, as we have assumed, Goal 3 requires that it is the entire aggregate of activities that is the 'commercial agricultural enterprise within the area' that must be continued and supported, such an 'enterprise' is better continued and supported by dividing a more-or-less idle 82 acre farm, and one which is likely to remain idle in the future, into 6 smaller farms of from 10 to 20 acres if, as found by the Board, the result will be

'Greater agricultural utilization of the land'." As established in this criteria response and the testimony provides at public hearing, 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 sizes of 40 acres.

As also noted herein, the average vineyard in Oregon is under 25 acres in size. The proposed zone change to EF-40 will still allow parcels of sufficient size to operate a commercially viable vineyard and winery. The Application is consistent with Oregon's agricultural land use policy.

215.780 Minimum lot or parcel sizes; land division to establish a dwelling; recordation. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

- (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- (c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

***Applicant's Response:** Applicant has, in this Application, demonstrated that a minimum 40-acre parcel size in Yamhill County's Exclusive Farm Use zone is consistent with the agricultural land use policy (ORS 215.243) and Yamhill County's Comprehensive Plan. ORS 527.630 addresses Oregon's Forest Practices Act and is not applicable to the Subject Property or the Application. Further, an amendment or an exception to a Statewide Planning Goal is not required for this Application. Therefore, ORS 197.230 is also not relevant to this Application.*

Conclusion

As demonstrated herein, this Application meets and satisfies the criteria of YCZO 1208.03 and Applicant's request to change the zoning for the Subject Property to EF-40 should be approved.



2008 Oregon Vineyard and Winery Report

February 2009
 Frequency: Annual

1220 SW 3rd Ave., Room 1735
 Portland, Oregon 97204
 (503) 326-2131 or
 1-800-338-2157
 Email: nass-or@nass.usda.gov
 Website: www.nass.usda.gov/or

USDA, NASS, Oregon Field Office

For the third year in a row Oregon grape growers planted a record number of new acres. There were 1,570 new acres planted in 2008, 1,543 new acres planted in 2007, and 1,378 new acres planted in 2006. Total yield per harvested acre was down 17 percent in 2008. Growers reported a late start to the growing season coupled with various sources of fruit loss. The most frequently reported grape varieties not listed in the accompanying tables were: Grenache, Malbec, Marechal Foch, Sangiovese, and Petit Verdot.

There was a net gain of 25 wineries in Oregon during 2008 and a ten percent increase in total cooerage. Case sales of Oregon wine increased two percent and wine sales in dollars increased 15 percent. Funding for this annual survey is provided by the Oregon Wine Board.

Wine grapes: Acreage, yield, production, price and value, by variety, Oregon, 2007-2008

Variety	All planted acreage		Harvested acreage		Yield per harvested acre		Production		Price per ton ¹		Value of production	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Dollars</i>	<i>Dollars</i>	<i>1,000 dollars</i>	<i>1,000 dollars</i>
Cabernet Franc	131	136	90	98	2.78	2.04	250	200	1,790	1,890	448	378
Cabernet Sauvignon	571	627	494	523	2.85	2.25	1,406	1,177	1,840	1,960	2,587	2,307
Chardonnay	972	1,008	755	779	2.94	2.09	2,218	1,630	1,380	1,640	3,061	2,673
Gewurztraminer	203	217	179	188	2.68	3.04	480	571	1,170	1,200	562	685
Merlot	498	508	403	372	2.95	2.60	1,187	967	1,640	1,640	1,947	1,586
Muller Thurgau	92	91	67	69	5.73	4.26	384	294	920	980	353	288
Pinot Blanc	216	218	151	143	3.54	2.85	535	407	1,380	1,460	738	594
Pinot Gris	2,588	2,736	1,889	2,064	3.35	2.86	6,336	5,894	1,370	1,390	8,680	8,193
Pinot Noir	9,858	11,210	8,073	8,713	2.52	2.02	20,368	17,571	2,290	2,600	46,643	45,685
Sauvignon Blanc	76	79	50	47	2.42	2.57	121	121	1,200	1,310	145	159
Syrah	506	572	393	444	2.72	2.52	1,069	1,120	2,000	2,070	2,138	2,318
Tempranillo	133	163	101	130	2.50	2.18	253	284	1,900	1,930	481	548
Viognier	155	183	119	135	2.77	2.27	330	307	1,750	1,780	578	546
White Riesling	710	777	547	615	3.92	4.28	2,146	2,633	1,030	1,090	2,210	2,870
Zinfandel	66	60	23	53	3.96	1.89	91	100	1,730	1,660	157	166
All others	625	715	466	527	3.06	2.70	1,426	1,424	1,330	1,410	1,897	2,008
Total²	17,400	19,300	13,800	14,900	2.80	2.33	38,600	34,700	1,880	2,050	72,568	71,135³

¹ Price per ton is a weighted average of prices received by Oregon grape growers and prices paid by Oregon wineries.

² Totals may not add due to rounding.

³ Value of production is derived by multiplying quantity times price, rather than the summation of value by variety.

Wine grapes: Vineyards, acreage, yield and production, by county, Oregon, 2007-2008

County	Number of vineyards		All planted acreage		Harvested acreage		Yield per harvested acre		Production	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
	<i>Number</i>	<i>Number</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
Benton Co.	35	36	414	423	363	356	2.35	2.21	854	786
Clackamas Co.	44	49	403	417	303	303	2.75	2.01	832	610
Douglas Co.	50	52	902	1,098	753	860	2.51	2.67	1,888	2,299
Hood River Co.	14	16	150	176	123	155	1.95	1.34	240	207
Jackson Co.	76	81	1,306	1,374	976	1,115	3.06	2.48	2,991	2,763
Josephine Co.	30	33	605	609	480	447	3.26	2.56	1,563	1,144
Lane Co.	42	49	1,042	1,072	696	755	2.89	2.81	2,010	2,123
Linn Co.	12	12	61	70	42	52	2.02	2.08	85	108
Marion Co.	33	38	1,384	1,817	1,223	1,304	3.11	2.58	3,801	3,367
Polk Co.	77	78	2,660	2,883	1,891	1,960	2.70	2.08	5,097	4,086
Umatilla Co.	31	35	688	874	559	612	2.67	2.73	1,490	1,668
Wasco Co.	17	19	160	202	147	171	3.35	2.59	493	443
Washington Co.	78	84	1,800	1,740	1,387	1,461	2.97	2.32	4,122	3,395
Yamhill Co.	232	248	5,550	6,134	4,634	4,997	2.57	2.00	11,910	9,992
All others	21	26	275	411	223	352	5.49	4.86	1,224	1,709
Total	792	856	17,400	19,300	13,800	14,900	2.80	2.33	38,600	34,700

Wine grapes: Planted acreage, by variety and area, Oregon, 2008 and 2007 totals

Area	Cabernet Sauvignon	Char-donnay	Gewurz-traminer	Merlot	Pinot Blanc	Pinot Gris	Pinot Noir	Syrah	White Riesling	All others	All varieties	
											2008	2007
	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>
Benton Co.	8	18	6	3	2	77	298	3	-	8	423	414
Douglas Co.	43	59	24	45	11	86	551	54	38	187	1,098	902
Jackson Co.	170	78	7	204	3	109	113	216	65	409	1,374	1,306
Josephine Co.	21	53	31	53	12	88	231	23	54	43	609	605
Lane Co.	-	34	7	1	4	486	457	-	47	36	1,072	1,042
Marion Co.	2	50	7	-	2	559	1,033	-	103	61	1,817	1,384
Polk Co.	-	175	19	1	86	414	2,035	24	37	92	2,883	2,660
Washington Co.	1	73	36	1	19	337	1,104	1	96	72	1,740	1,800
Yamhill Co.	1	372	23	-	78	461	4,932	10	141	116	6,134	5,550
Other W. Valley and at large ¹	2	34	22	9	1	85	301	17	32	57	560	469
Columbia River ²	379	62	35	191	-	34	155	224	164	346	1,590	1,268
Total, 2008	627	1,008	217	508	218	2,736	11,210	572	777	1,427	19,300	-
Total, 2007	571	972	203	498	216	2,588	9,858	506	710	1,096	-	17,400

¹ Clackamas, Columbia, Coos, Crook, Deschutes, Jefferson, Klamath, Linn, and Multnomah counties.

² Gilliam, Hood River, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco counties.

Wine grapes: Harvested acreage, by variety and area, Oregon, 2008 and 2007 totals

Area	Cabernet Sauvignon	Char-donnay	Gewurz-traminer	Merlot	Pinot Blanc	Pinot Gris	Pinot Noir	Syrah	White Riesling	All others	All varieties	
											2008	2007
	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>
Benton Co.	5	15	3	1	2	56	264	3	-	7	356	363
Douglas Co.	41	49	18	29	9	67	423	41	31	152	860	753
Jackson Co.	154	67	6	166	3	93	79	190	55	302	1,115	976
Josephine Co.	17	38	25	25	5	79	182	16	38	22	447	480
Lane Co.	-	27	6	1	2	299	369	-	34	17	755	696
Marion Co.	2	34	7	-	2	429	713	-	64	53	1,304	1,223
Polk Co.	-	116	24	1	37	256	1,419	19	21	67	1,960	1,891
Washington Co.	1	67	32	1	14	264	931	1	88	62	1,461	1,387
Yamhill Co.	-	284	16	-	69	418	4,009	5	102	94	4,997	4,634
Other W. Valley and at large ¹	1	25	16	6	-	72	217	16	24	29	406	345
Columbia River ²	302	57	35	142	-	31	107	153	158	254	1,239	1,052
Total, 2008	523	779	188	372	143	2,064	8,713	444	615	1,059	14,900	-
Total, 2007	494	755	179	403	151	1,889	8,073	393	547	916	-	13,800

¹ Clackamas, Columbia, Coos, Crook, Deschutes, Jefferson, Klamath, Linn, and Multnomah counties.

² Gilliam, Hood River, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco counties.

Wine grapes: Production, by variety and area, Oregon, 2008 and 2007 totals

Area	Cabernet Sauvignon	Char-donnay	Gewurz-traminer	Merlot	Pinot Blanc	Pinot Gris	Pinot Noir	Syrah	White Riesling	All others	All varieties	
											2008	2007
	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
Benton Co.	7	21	14	1	5	170	550	3	-	15	786	854
Douglas Co.	78	107	38	77	20	316	1,185	72	101	305	2,299	1,888
Jackson Co.	274	192	7	383	11	255	177	548	282	634	2,763	2,991
Josephine Co.	49	75	74	81	22	190	445	43	118	47	1,144	1,563
Lane Co.	-	42	13	2	6	1,067	870	-	77	46	2,123	2,010
Marion Co.	5	49	14	-	6	1,297	1,476	-	321	199	3,367	3,801
Polk Co.	-	213	43	2	90	685	2,781	8	55	209	4,086	5,097
Washington Co.	2	144	102	1	41	701	1,868	1	275	260	3,395	4,122
Yamhill Co.	-	608	26	-	206	1,018	7,655	8	209	262	9,992	11,910
Other W. Valley and at large ¹	2	49	67	12	-	148	367	35	70	67	817	917
Columbia River ²	760	130	173	408	-	47	197	402	1,125	686	3,928	3,447
Total, 2008	1,177	1,630	571	967	407	5,894	17,571	1,120	2,633	2,730	34,700	-
Total, 2007	1,406	2,218	480	1,187	535	6,336	20,368	1,069	2,146	2,855	-	38,600

¹ Clackamas, Columbia, Coos, Crook, Deschutes, Jefferson, Klamath, Linn, and Multnomah counties.

² Gilliam, Hood River, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco counties.

Wine grapes: Vineyards, acreage, yield and production, by growing area, Oregon, 2007-2008

Growing area ¹	Number of vineyards		All planted acreage		Harvested acreage		Yield per harvested acre		Production	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
	<i>Number</i>	<i>Number</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
Columbia River and at large	83	96	1,273	1,663	1,052	1,290	3.28	3.12	3,447	4,027
North Willamette Valley	461	493	11,659	12,809	9,316	9,895	2.72	2.13	25,382	21,113
Rogue Valley ²	106	114	1,911	1,983	1,456	1,562	3.13	2.50	4,554	3,907
South Willamette Valley	92	101	1,655	1,747	1,223	1,293	2.72	2.59	3,329	3,354
Umpqua Valley	50	52	902	1,098	753	860	2.51	2.67	1,888	2,299
Total	792	856	17,400	19,300	13,800	14,900	2.80	2.33	38,600	34,700

¹ See www.oregonwine.org for growing area descriptions.

² Rogue Valley data includes Applegate Valley.

Wine grapes: Acreage changes and fruit not used or lost, as reported, by variety, Oregon, 2008 and 2007 totals

Variety	New plantings	Removals	Harvested but not utilized	Not harvested	Fruit losses			
					To animals	To disease	To weather	All losses
					<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
	<i>Acres</i>	<i>Acres</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
Cabernet Franc	8	4	-	6	2	1	7	10
Cabernet Sauvignon	38	22	-	2	5	5	81	91
Chardonnay	65	37	-	48	32	41	54	127
Gewurztraminer	1	3	3	16	8	1	12	21
Merlot	26	32	-	47	8	8	55	71
Muller Thurgau	4	3	-	8	1	-	-	1
Pinot Blanc	13	5	-	3	1	2	-	3
Pinot Gris	106	70	3	14	59	5	63	127
Pinot Noir	1,123	134	8	45	164	85	191	440
Sauvignon Blanc	6	3	-	21	-	3	3	6
Syrah	47	8	1	-	7	1	63	71
Tempranillo	18	-	-	1	1	25	14	40
Viognier	11	3	-	7	3	-	12	15
White Riesling	28	14	2	2	14	19	31	64
Zinfandel	1	7	-	-	2	-	17	19
All others	75	7	2	6	19	6	41	66
Total, 2008	1,570	352	19	226	326	202	644	1,172
Total, 2007	1,543	178	42	247	185	423	400	1,008

Wine grapes: Use or sales, by destination and variety, Oregon, 2008 and 2007 totals

Variety	Estate, home use, and not utilized	Oregon	Washington	Other destinations	All uses
	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
	Cabernet Franc	63	103	34	-
Cabernet Sauvignon	249	417	511	-	1,177
Chardonnay	727	831	60	12	1,630
Gewurztraminer	256	155	160	-	571
Merlot	277	439	251	-	967
Muller Thurgau	172	121	1	-	294
Pinot Blanc	224	183	-	-	407
Pinot Gris	2,688	3,189	17	-	5,894
Pinot Noir	8,638	8,726	24	183	17,571
Sauvignon Blanc	57	54	10	-	121
Syrah	287	619	214	-	1,120
Tempranillo	136	125	23	-	284
Viognier	120	182	5	-	307
White Riesling	793	745	1,072	23	2,633
Zinfandel	54	42	4	-	100
All others	489	709	216	10	1,424
Total, 2008	15,230	16,640	2,602	228	34,700
Total, 2007	18,139	17,692	2,593	176	38,600

Wine grapes: Planted acreage, as reported, by variety and AVA, Oregon, 2008^{1 2}

American Viticultural Area	Cabernet Franc	Cabernet Sauvignon	Char-donnay	Gewurz-traminer	Merlot	Muller Thurgau	Pinot Blanc	Pinot Gris	Pinot Noir
	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>
In Applegate Valley AVA	23	61	52	-	68	-	-	6	15
Not in Applegate Valley AVA, but in Rogue Valley AVA	42	102	56	36	100	-	11	122	164
In Red Hills Douglas County AVA and Umpqua Valley AVA	3	36	50	24	45	3	11	78	522
In Columbia Gorge AVA	5	19	25	3	29	-	-	34	84
In Walla Walla Valley AVA	30	232	8		141			1	22
Not in Walla Walla Valley AVA, but in Columbia Valley AVA	11	126	24	25	15		2	13	58
In Ribbon Ridge AVA	-	-	19	1	-	-	1	19	275
Not in Ribbon Ridge AVA, but in Chehalem Mountains AVA	-	-	92	1	-	1	16	88	795
In Dundee Hills AVA	-	-	120	6	-	-	10	109	922
In Eola-Amity Hills AVA	-	-	127	13	-	6	13	120	1,656
In McMinnville AVA	-	-	14	8	-	7	25	46	614
In Yamhill-Carlton District AVA	-	2	89	33	-	22	12	114	1,139
Not in the above six AVAs, but in the Willamette Valley AVA	-	10	238	48	8	29	65	1,347	3,113
Not in any of the above AVAs, but in Oregon	-	1	36	17	5	3	2	384	311

¹ No estimates were made for missing or incomplete data.

² The summation of AVA acreage is not equal to growing area acreage.

Wine grapes: Planted acreage, as reported, by variety and AVA, Oregon, 2008^{1 2} (cont.)

American Viticultural Area	Sauvignon Blanc	Syrah	Tempranillo	Viognier	White Riesling	Zinfandel	All others	Total
	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>	<i>Acre</i>
In Applegate Valley AVA	5	61	23	27	10	17	46	414
Not in Applegate Valley AVA, but in Rogue Valley AVA	7	153	24	58	27	4	79	985
In Red Hills Douglas County AVA and Umpqua Valley AVA	6	58	53	10	64	12	90	1,065
In Columbia Gorge AVA	7	42	13	5	32	26	12	336
In Walla Walla Valley AVA	5	160	13	17	-	-	111	740
Not in Walla Walla Valley AVA, but in Columbia Valley AVA	-	7	4	-	135	1	18	439
In Ribbon Ridge AVA	2	-	-	-	10	-	8	335
Not in Ribbon Ridge AVA, but in Chehalem Mountains AVA	1	2	-	5	17	-	13	1,031
In Dundee Hills AVA	2	-	-	-	8	-	2	1,179
In Eola-Amity Hills AVA	9	20	6	6	23	-	26	2,025
In McMinnville AVA	-	-	-	-	17	-	13	744
In Yamhill-Carlton District AVA	-	5	1	3	22	-	16	1,458
Not in the above six AVAs, but in the Willamette Valley AVA	11	13	3	14	253	-	104	5,256
Not in any of the above AVAs, but in Oregon	-	5	3	5	14	-	36	822

¹ No estimates were made for missing or incomplete data.

² The summation of AVA acreage is not equal to growing area acreage.

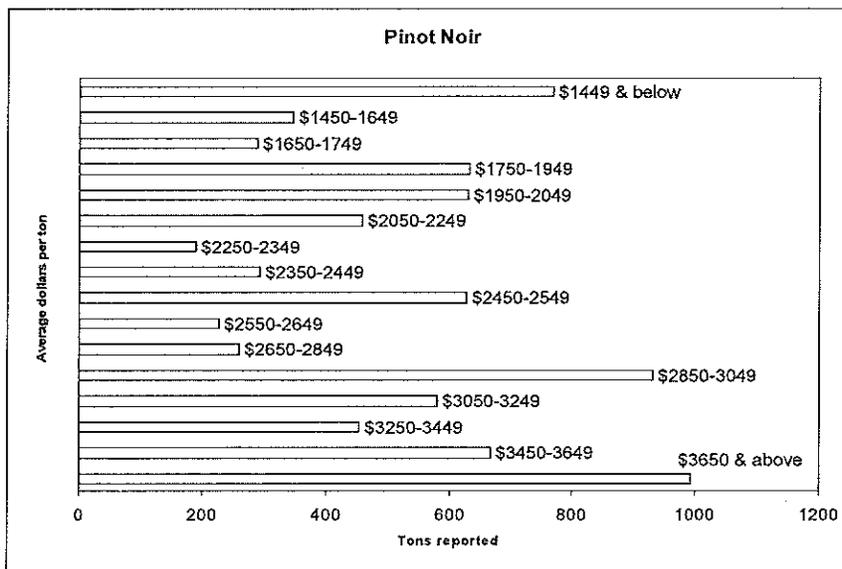
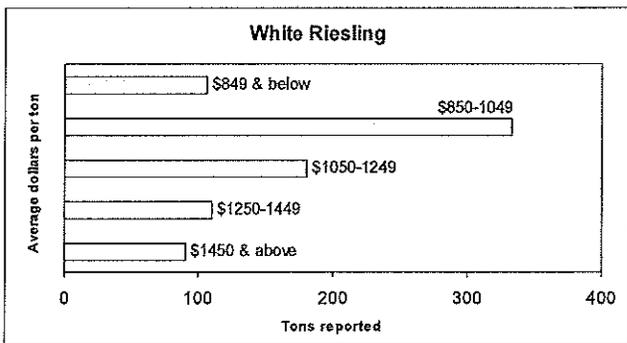
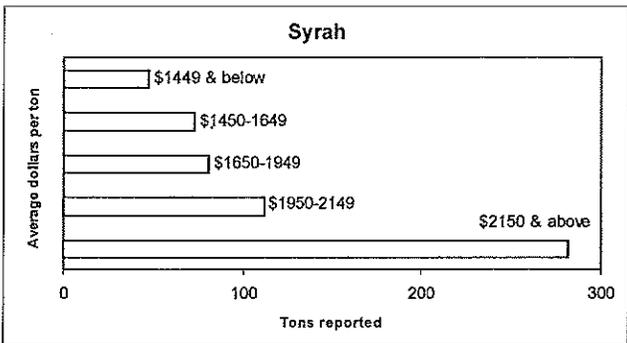
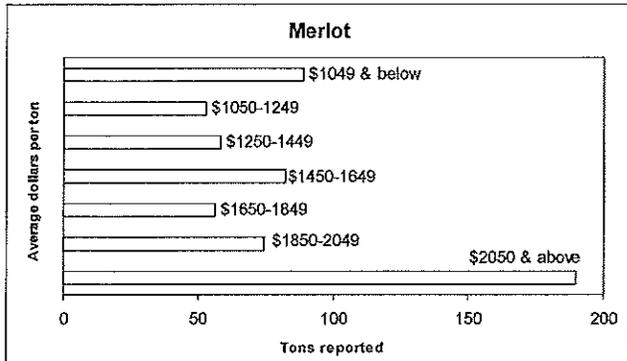
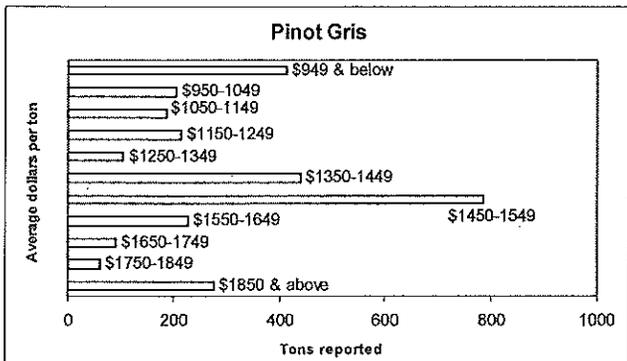
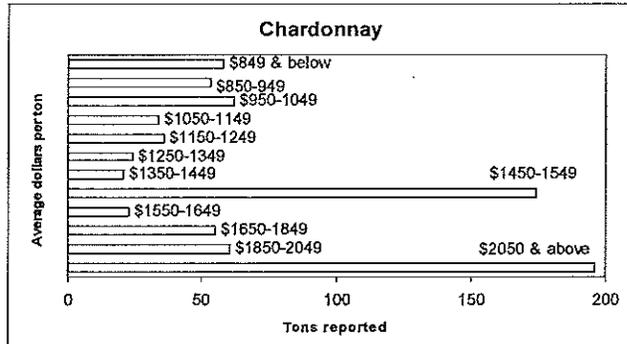
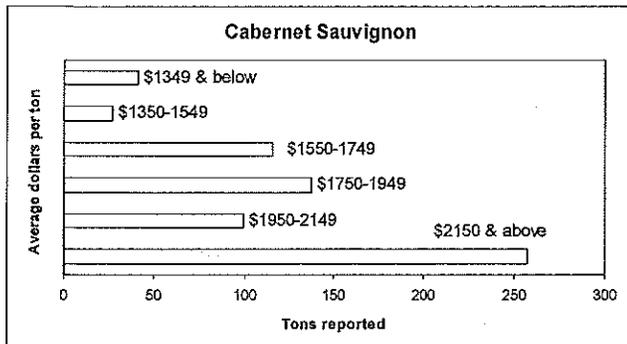
Wine grapes: Price per ton, by selected variety and area, Oregon, 2007-2008^{1 2}

Variety	Columbia River		North Willamette Valley		Rogue Valley		South Willamette Valley		Umpqua Valley	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>	<i>Dollars</i>
Cabernet Sauvignon	1,950	2,020	-	-	1,820	1,910	-	-	1,870	1,700
Chardonnay	1,270	1,250	1,420	1,950	1,060	1,000	1,270	1,470	820	950
Merlot	1,760	1,810	-	-	1,460	1,470	-	-	1,670	1,540
Pinot Gris	-	-	1,370	1,400	1,280	1,370	1,360	1,330	1,410	1,320
Pinot Noir	1,700	2,110	2,310	2,820	1,480	1,670	2,230	2,300	1,990	2,000
White Riesling	1,090	1,080	1,120	1,150	1,040	1,280	1,070	1,180	990	980

¹ Selected varieties include those with the largest harvest acreages. Dashes represent insufficient data.

² Price per ton is a weighted average of prices received by Oregon grape growers and prices paid by Oregon wineries.

Wine Grapes: Distribution of average prices, as reported by Oregon Vineyards, 2008
 These are average prices reported by Oregon vineyards only and do not include reported prices paid by Oregon wineries.



Wineries: Number, crush, and cooperage, by area, Oregon, 2007-2008¹

Area	All wineries ²		Wineries crushing grapes		Wine grapes crushed		Total cooperage	
	2007	2008	2007	2008	2007	2008	2007	2008
	Number	Number	Number	Number	Tons	Tons	1,000 gallons	1,000 gallons
Douglas Co.	24	25	14	14	969	886	452	486
Lane Co.	20	21	14	15	3,487	3,752	914	1,092
Marion Co.	17	16	12	11	2,315	2,257	416	417
Polk Co.	34	38	24	31	4,423	4,183	1,193	1,790
Washington Co.	26	27	19	17	3,977	2,455	977	845
Yamhill Co.	141	148	100	106	16,414	13,799	4,285	4,526
Other Willamette Valley ³	37	41	27	30	1,930	1,864	865	884
Rogue Valley ⁴	39	42	26	24	2,966	2,566	901	845
All others ⁵	32	37	18	26	519	838	297	458
Total	370	395	254	274	37,000	32,600	10,300	11,343

¹ Includes estimates for incomplete responses.

² Includes Growers Sales Privilege License holders (issued by the OLCC).

³ Benton, Clackamas, Linn, and Multnomah counties.

⁴ Jackson and Josephine counties.

⁵ Columbia, Coos, Clatsop, Curry, Deschutes, Gilliam, Grant, Hood River, Jefferson, Klamath, Lincoln, Tillamook, Umatilla, Union, and Wasco counties.

Wineries: Number, crush, and cooperage, by growing area, Oregon, 2007-2008¹

Growing area ²	All wineries ³		Wineries crushing grapes		Total wine grapes crushed		Total cooperage	
	2007	2008	2007	2008	2007	2008	2007	2008
	Number	Number	Number	Number	Tons	Tons	1,000 gallons	1,000 gallons
Columbia River and at large	32	37	18	26	519	838	297	458
North Willamette Valley	233	246	166	178	27,861	24,628	7,496	8,357
Rogue Valley ⁴	39	42	26	24	2,966	2,566	901	845
South Willamette Valley	42	45	30	32	4,685	3,682	1,154	1,197
Umpqua Valley	24	25	14	14	969	886	452	486
Total	370	395	254	274	37,000	32,600	10,300	11,343

¹ Includes estimates for incomplete responses.

² See www.oregonwine.org for growing area descriptions.

³ Includes Growers Sales Privilege License holders (issued by the OLCC).

⁴ Rogue Valley data includes Applegate Valley.

Wineries: Crush by variety and area, 2008 and 2007 totals^{1 2}

Area	Cabernet Sauvignon	Char-donnay	Gewurz-traminer	Merlot	Muller Thurgau	Pinot Gris	Pinot Noir	Syrah	Viognier	White Riesling	All others	All varieties	
												2008	2007
	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons
Douglas Co.	35	52	25	46	7	63	289	49	26	51	243	886	969
Lane Co.	26	69	34	55	6	2,014	1,159	76	33	115	165	3,752	3,487
Marion Co.	12	76	20	13	3	323	1,029	5	6	348	422	2,257	2,315
Polk Co.	80	242	45	58	34	434	2,764	105	19	203	199	4,183	4,423
Washington	6	108	61	6	64	661	1,184	16	16	159	174	2,455	3,977
Yamhill Co.	103	674	65	180	173	1,642	9,921	290	55	229	467	13,799	16,414
Other Willamette Valley ³	82	95	40	64	-	252	1,017	84	31	54	145	1,864	1,930
Rogue Valley ⁴	173	194	91	230	-	363	713	192	99	273	238	2,566	2,966
All other ⁵	129	48	10	110	-	44	98	96	22	62	219	838	519
Total, 2008	646	1,558	391	762	287	5,796	18,174	913	307	1,494	2,272	32,600	-
Total, 2007	843	2,076	429	990	384	6,244	20,317	842	386	1,550	2,939	-	37,000
Case equivalent ⁶	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases	1,000 Cases
2008	40.7	98.2	24.6	48.0	18.1	365.3	1,145.4	57.5	19.3	94.2	143.2	2,054.6	-
2007	53.1	130.8	27.0	62.4	24.2	393.5	1,280.5	53.1	24.3	97.7	185.2	-	2,331.9

¹ Includes estimates for incomplete responses.

² There were 316 tons crushed for sparkling wine in 2008.

³ Benton, Clackamas, Linn and Multnomah counties.

⁴ Jackson and Josephine counties.

⁵ Columbia, Coos, Clatsop, Curry, Deschutes, Gilliam, Grant, Hood River, Jefferson, Klamath, Lincoln, Tillamook, Umatilla, Union, and Wasco counties.

⁶ Equivalent cases of wine production equals tons crushed times 150 gallons per ton divided by 2.38 gallons per case.

Wineries: Crush by type of acquisition and area, Oregon, 2008 and 2007 totals ¹

Area	Estate grown		Purchased		Custom crush		All crush, 2008		All crush, 2007	
	Tons		Tons		Tons		Tons		Tons	
Douglas Co.	357	409	120	886	969					
Lane Co.	1,334	2,153	265	3,752	3,487					
Marion Co.	950	1,292	15	2,257	2,315					
Polk Co.	1,941	1,514	728	4,183	4,423					
Washington Co.	1,988	414	53	2,455	3,977					
Yamhill Co.	6,546	4,497	2,756	13,799	16,414					
Other Willamette Valley ²	837	1,004	23	1,864	1,930					
Rogue Valley ³	1,247	1,090	229	2,566	2,966					
All others ⁴	248	448	142	838	519					
Total, 2008	15,448	12,821	4,331	32,600	-					
Total, 2007	17,313	14,224	5,463	-	37,000					

¹ Includes estimates for incomplete responses.

² Benton, Clackamas, Linn, and Multnomah counties.

³ Jackson and Josephine counties.

⁴ Columbia, Coos, Clatsop, Deschutes, Gilliam, Grant, Hood River, Jefferson, Klamath, Lincoln, Tillamook, Umatilla, Union, and Wasco counties.

Wineries: Crush, by origin and variety, Oregon, 2007-2008 ¹

Variety	Oregon						Grown in other states		All crush	
	Estate grown		Other Oregon grown		All Oregon grown		2007	2008	2007	2008
	2007	2008	2007	2008	2007	2008				
	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>	<i>Tons</i>
Cabernet Franc	85	52	89	93	174	145	83	19	257	164
Cabernet Sauvignon	319	212	353	347	672	559	171	87	843	646
Chardonnay	1,080	671	914	836	1,994	1,507	82	51	2,076	1,558
Gewurztraminer	214	211	215	158	429	369	-	22	429	391
Merlot	297	222	612	444	909	666	81	96	990	762
Muller Thurgau	220	164	164	123	384	287	-	-	384	287
Pinot Blanc	271	203	304	199	575	402	-	-	575	402
Pinot Gris	2,951	2,657	3,289	3,120	6,240	5,777	4	19	6,244	5,796
Pinot Noir	10,061	9,389	10,230	8,785	20,291	18,174	26	-	20,317	18,174
Sauvignon Blanc	21	37	81	53	102	90	-	1	102	91
Syrah	261	219	456	601	717	820	125	93	842	913
Tempranillo	128	108	58	110	186	218	-	1	186	219
Viognier	89	97	279	191	368	288	18	19	386	307
White Riesling	762	753	628	712	1,390	1,465	160	29	1,550	1,494
Zinfandel	50	44	70	44	120	88	39	37	159	125
All others	504	409	926	691	1,430	1,100	230	171	1,660	1,271
Total	17,313	15,448	18,668	16,507	35,981	31,955	1,019	645	37,000	32,600

¹ Includes estimates for incomplete responses.

Wineries: Oregon non-grape wine production, 2007 - 2008

Variety	2007		2008	
	Gallons		Gallons	
Blackberry		1,975		1,174
Blueberry		807		950
Boysenberry		502		859
Cherry		1,079		907
Cranberry		9,289		9,766
Loganberry		3,012		3,273
Marionberry		9,416		9,726
Pear		2,945		2,985
Raspberry		7,469		7,700
Rhubarb		897		1,193
Strawberry		332		302
Other ¹		15,580		12,153
Total		53,303		50,988

¹ Includes apricots, currant, honey, peach, pineapple, plum, and fruit blends.

Wineries: Inventory by vintage, variety, and wine type, Oregon, January 1, 2009^{1 2}

Variety and wine type	Bottled inventory by vintage ³					Bulk inventory by vintage				
	2008 Vintage	2007 Vintage	2006 and earlier Vintages	Total	Share of total	2008 Vintage	2007 Vintage	2006 and earlier Vintages	Total	Share of total
	<i>1,000 cases</i>	<i>1,000 cases</i>	<i>1,000 cases</i>	<i>1,000 cases</i>	<i>Percent</i>	<i>1,000 gallons</i>	<i>1,000 gallons</i>	<i>1,000 gallons</i>	<i>1,000 gallons</i>	<i>Percent</i>
Cabernet Franc	-	0.7	3.7	4.5	0.3	22.7	16.3	2.0	41.0	0.7
Cabernet Sauvignon	0.8	2.4	24.3	27.5	1.9	99.8	84.2	28.3	212.3	3.4
Chardonnay	1.1	59.5	30.7	91.3	6.3	253.0	56.1	14.6	323.7	5.2
Gewurztraminer	0.4	9.6	4.7	14.7	1.0	48.8	8.5	0.9	58.2	0.9
Merlot	0.1	4.2	32.5	36.8	2.5	97.3	75.3	15.1	187.8	3.0
Muller Thurgau	-	5.8	1.4	7.2	0.5	39.1	1.1	3.9	44.2	0.7
Pinot Blanc	0.1	11.5	6.8	18.3	1.3	53.8	3.2	-	57.0	0.9
Pinot Gris	4.6	159.9	24.9	189.5	13.1	894.9	39.1	5.3	939.4	15.0
Pinot Noir	10.3	626.4	167.0	803.7	55.4	2,438.1	758.3	39.6	3,236.0	51.7
Sauvignon Blanc	-	0.8	0.6	1.3	0.1	11.3	-	-	11.3	0.2
Syrah	0.8	8.9	11.1	20.8	1.4	134.9	62.5	11.1	208.5	3.3
Tempranillo	0.4	1.9	1.6	3.8	0.3	34.2	22.7	2.5	59.4	0.9
Viognier	0.2	9.7	2.8	12.7	0.9	41.9	3.1	0.3	45.3	0.7
White Riesling	0.8	23.7	6.8	31.3	2.2	222.0	25.6	0.6	248.2	4.0
Zinfandel	0.2	2.1	3.2	5.4	0.4	17.4	2.9	3.2	23.5	0.4
Red blends	1.9	34.7	29.7	66.3	4.6	114.0	42.5	11.7	168.2	2.7
White blends	0.7	17.1	2.1	19.9	1.4	30.2	3.3	1.1	34.6	0.6
Rose and Blush blends	0.1	7.0	3.3	10.4	0.7	40.2	3.5	0.5	44.2	0.7
Other still wines	2.2	25.7	18.3	46.2	3.2	238.1	33.9	7.9	279.9	4.5
All sparkling wines	1.6	8.9	27.2	37.7	2.6	30.6	1.8	1.2	33.6	0.5
Total⁴	26.4	1,020.5	402.6	1,449.5	100.0	4,862.5	1,243.8	150.0	6,256.3	100.0

¹ Includes estimates for incomplete responses.
² Includes bonded and tax-paid inventory owned by Oregon wineries.
³ One case is equivalent to nine liters.
⁴ Totals may not add due to rounding.

Wineries: Sales, by variety and wine type, Oregon, 2007-2008¹

Variety and wine type	2007			2008		
	Case sales	Share of total case sales ²	Bulk sales	Case sales	Share of total case sales ²	Bulk sales
	<i>Cases</i>	<i>Percent</i>	<i>Gallons</i>	<i>Cases</i>	<i>Percent</i>	<i>Gallons</i>
Still wines:						
Cabernet Franc	2,954	0.2	755	3,313	0.2	649
Cabernet Sauvignon	17,716	1.0	534	18,992	1.1	1,192
Chardonnay	83,944	4.9	8,269	80,927	4.6	11,752
Gewurztraminer	10,338	0.6	375	13,252	0.8	1,467
Merlot	26,259	1.5	5,362	19,607	1.1	3,953
Muller Thurgau	8,970	0.5	-	10,176	0.6	1,565
Pinot Blanc	18,961	1.1	9,800	22,411	1.3	1,565
Pinot Gris	310,231	18.1	14,558	324,912	18.6	46,606
Pinot Noir	854,536	49.9	162,746	882,056	50.4	129,805
Sauvignon Blanc	3,283	0.2	-	2,313	0.1	-
Syrah	18,937	1.1	1,629	21,257	1.2	4,336
Tempranillo	4,818	0.3	876	4,885	0.3	120
Viognier	7,184	0.4	349	8,546	0.5	-
White Riesling	72,745	4.3	1,832	89,255	5.1	5,057
Zinfandel	4,575	0.3	-	4,495	0.3	-
Red blends	78,098	4.6	5,578	84,485	4.8	75
White blends	62,560	3.7	-	64,958	3.7	2,594
Blush blends	24,093	1.4	-	18,060	1.0	797
Other still wines	85,604	5.0	-	62,295	3.6	11,336
All sparkling wines	15,726	0.9	-	12,087	0.7	-
Total	1,711,532	100.0	212,663	1,748,282	100.0	222,869
Total dollars	207,754,400	-	-	239,930,550	-	-

¹ Includes estimates for incomplete responses.
² Share of total represents the percentage of case sales only.

Wineries: Sales by destination, domestic sales, Oregon, 2007-2008 ¹

Year	Direct to consumers			Sales to distributors, retailers, and restaurants					All domestic sales
	Wineries or tasting rooms	Wine clubs, events, or online sales ²	All direct sales	Oregon	Washington	New York	California	Other US	
	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>
2008	243,797	119,515	363,312	383,047	120,277	76,416	131,097	622,486	1,696,635
2007	241,710	100,194	341,904	404,172	119,866	65,157	110,950	625,735	1,667,784

¹ Includes estimates for incomplete responses.

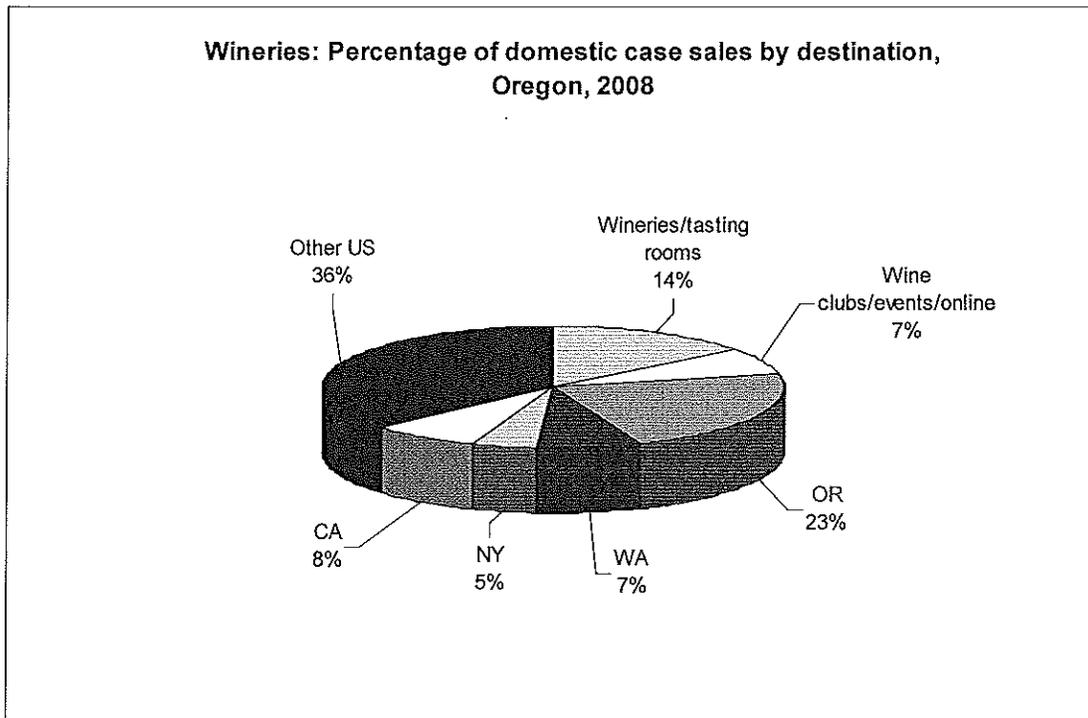
² Also includes wine festivals and all other direct consumer sales.

Wineries: Sales by destination, export sales by variety and wine type, Oregon, 2008 totals ¹

Variety and wine type	Canada	Japan	South Korea	All other Asia	United Kingdom	Caribbean Islands ²	Scandinavia	All other destinations	All export sales	
									2008	2007
	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>	<i>Cases</i>
Chardonnay	385	1,528	50	118	289	67	111	260	2,808	1,277
Merlot	115	50	-	-	-	-	-	1	166	223
Pinot Blanc	359	71	-	10	103	-	478	22	1,043	254
Pinot Gris	2,345	1,081	22	136	334	530	359	317	5,124	4,567
Pinot Noir	8,871	4,991	1,388	778	1,508	2,497	1,480	4,459	25,972	23,327
Syrah	74	53	-	-	3	-	-	118	248	117
White Riesling	67	1,012	44	78	501	-	-	-	1,702	198
Red blends	2,405	486	2	121	51	317	336	54	3,772	2,667
White blends	3,948	564	-	21	59	452	336	39	5,419	3,938
All others	4,419	339	-	60	280	65	184	46	5,393	7,180
Total, 2008	22,988	10,175	1,506	1,322	3,128	3,928	3,284	5,316	51,647	
Total, 2007	15,924	13,364	2,831	668	2,777	3,531	1,364	3,289		43,748

¹ Includes estimates for incomplete responses.

² Includes the Greater and Lesser Antilles and other outlying areas of the Caribbean Sea.



Note: Oregon, Washington, New York, California and Other US sales are to distributors, retailers, and restaurants.

Oregon Vineyard and Winery Quick Facts 1998-2008

Oregon wine grapes: Average dollars per ton, by variety, 1998 - 2008

Variety	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
	<i>Dollars</i>										
Cabernet Franc	-	-	1,560	1,510	1,620	1,670	1,780	1,710	1,750	1,790	1,890
Cabernet Sauvignon	1,200	1,320	1,420	1,410	1,670	1,410	1,540	1,610	1,630	1,840	1,960
Chardonnay	1,030	1,050	1,000	1,000	930	1,020	1,190	1,200	1,240	1,380	1,640
Gewurztraminer	860	800	910	970	910	990	1,010	1,040	1,120	1,170	1,200
Merlot	1,500	1,570	1,460	1,450	1,350	1,320	1,480	1,440	1,490	1,640	1,640
Muller Thurgau	800	750	740	870	800	890	950	950	920	920	980
Pinot Blanc	1,410	1,350	1,470	1,420	1,260	1,080	1,150	1,190	1,250	1,380	1,460
Pinot Gris	1,260	1,300	1,300	1,200	1,180	1,090	1,200	1,300	1,350	1,370	1,390
Pinot Noir	1,470	1,650	1,830	1,990	1,910	1,930	2,090	2,100	2,130	2,290	2,600
Sauvignon Blanc	820	1,050	1,000	920	1,010	930	1,130	1,160	1,180	1,200	1,310
Semillon	860	870	980	1,010	950	950	1,110	-	-	-	-
Syrah	-	-	1,720	1,650	1,875	1,890	1,990	2,000	2,000	2,000	2,070
Tempranillo	-	-	-	-	-	-	1,880	1,890	1,970	1,900	1,930
Viognier	-	-	-	-	-	-	1,590	1,650	1,670	1,750	1,780
White Riesling	710	710	750	800	840	870	960	740	1,030	1,030	1,090
Zinfandel	950	1,500	1,570	1,670	1,650	1,690	2,000	1,890	1,700	1,730	1,660
All others	1,064	1,030	1,050	1,080	1,150	1,400	1,110	1,170	1,280	1,330	1,410
Total	1,180	1,310	1,400	1,480	1,470	1,510	1,660	1,680	1,750	1,880	2,050

Oregon wine grapes: Planted acreage, by variety, 1998 - 2008

Variety	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>
Cabernet Franc	-	-	71	100	94	103	99	109	105	131	136
Cabernet Sauvignon	352	465	472	444	487	510	521	504	490	571	627
Chardonnay	1,603	1,513	1,306	1,166	1,060	927	866	842	929	972	1,008
Gewurztraminer	180	185	182	208	218	228	227	214	192	203	217
Merlot	383	529	624	570	559	579	563	550	508	498	508
Muller Thurgau	92	87	88	99	100	94	95	96	81	92	91
Pinot Blanc	104	114	119	123	154	178	190	190	215	216	218
Pinot Gris	1,350	1,363	1,442	1,467	1,526	1,797	1,813	1,885	2,188	2,588	2,736
Pinot Noir	3,689	4,208	4,834	5,536	6,450	7,366	7,637	7,974	8,884	9,858	11,210
Sauvignon Blanc	69	107	85	67	77	69	63	59	66	76	79
Semillon	48	61	57	60	50	44	45	-	-	-	-
Syrah	-	-	165	251	285	359	378	402	433	506	572
Tempranillo	-	-	-	-	-	-	93	108	119	133	163
Viognier	-	-	-	-	-	-	110	118	134	155	183
White Riesling	655	638	604	572	551	558	532	524	665	710	777
Zinfandel	79	65	68	64	69	66	58	64	60	66	60
All others	396	465	383	373	420	522	410	461	531	625	715
Total	9,000	9,800	10,500	11,100	12,100	13,400	13,700	14,100	15,600	17,400	19,300

Oregon wineries: Number crushing grapes, by area, 1998 - 2008

Area	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
	No.										
Douglas Co.	7	8	8	7	10	12	12	13	13	14	14
Lane Co.	7	8	9	10	12	12	13	13	13	14	15
Marion Co.	6	5	5	6	8	7	7	8	10	12	11
Polk Co.	12	14	14	14	17	16	18	22	26	24	31
Washington Co.	9	13	13	14	16	14	16	19	21	19	17
Yamhill Co.	32	40	40	47	49	70	79	85	89	100	106
Other Willamette Valley	15	18	18	18	21	22	25	26	25	27	30
Rogue Valley	9	10	10	11	11	12	14	16	21	26	24
All other	5	4	5	4	6	5	9	13	18	18	26
Total	102	120	122	131	150	170	193	215	236	254	274

Oregon wineries: Crush, by variety, 1998 - 2008

Variety	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
	Tons										
Cabernet Franc	-	-	-	75	115	164	140	202	300	257	164
Cabernet Sauvignon	551	645	657	967	443	649	528	650	929	843	646
Chardonnay	2,680	3,098	2,764	2,795	2,277	1,893	1,441	1,568	2,445	2,076	1,558
Gewurztraminer	252	265	333	421	432	408	239	253	418	429	391
Merlot	631	703	984	1,210	979	789	627	674	966	990	762
Muller Thurgau	318	399	488	386	324	263	255	319	423	384	287
Pinot Blanc	129	176	182	341	364	390	351	390	630	575	402
Pinot Gris	1,731	2,410	2,917	3,558	4,058	4,689	3,681	4,317	5,539	6,244	5,796
Pinot Noir	5,176	6,628	7,242	9,901	9,462	10,072	8,964	12,086	17,492	20,317	18,174
Sauvignon Blanc	87	119	105	96	89	92	84	49	108	102	91
Semillon	31	28	23	20	19	51	22	-	-	-	-
Syrah	-	31	109	221	358	424	400	606	869	842	913
Tempranillo	-	-	-	-	-	-	71	135	162	186	219
Viognier	-	-	-	-	-	-	91	194	259	386	307
White Riesling	1,043	1,219	1,143	1,192	879	1,109	1,013	1,000	1,304	1,550	1,494
Zinfandel	119	117	137	86	59	77	75	130	142	159	125
All others	517	685	579	969	1,047	790	638	877	1,314	1,660	1,271
Total	13,265	16,523	17,663	22,163	20,905	21,860	18,620	23,450	33,300	37,000	32,600

Oregon wineries: Sales, by variety, 1998 - 2008

Variety	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
	Cases	Cases	Cases	Cases	Cases	Cases	Cases	Cases	Cases	Cases	Cases
Cabernet Sauvignon	24,177	21,885	16,667	19,308	17,159	18,726	16,193	24,277	19,902	17,716	18,992
Chardonnay	174,520	139,336	172,205	181,477	141,810	142,070	160,583	136,211	96,435	83,944	80,927
Merlot	25,852	29,199	33,090	37,784	31,200	41,646	44,385	43,777	36,482	26,259	19,607
Pinot Gris	118,994	83,889	154,291	144,067	172,709	222,300	241,527	267,772	278,434	310,231	324,912
Pinot Noir	337,878	278,437	352,789	427,849	447,715	527,796	540,250	782,836	810,950	854,536	882,056
White Riesling	88,027	89,887	101,625	90,749	81,484	46,123	59,323	77,902	74,254	72,745	89,255
All other still wine	110,785	118,970	141,831	164,724	166,738	184,423	207,700	236,540	294,693	330,375	320,446
All sparkling wine	14,153	16,287	19,272	16,100	14,362	16,002	16,167	22,015	17,458	15,726	12,087
Total	894,386	777,890	991,770	1,082,058	1,073,177	1,199,086	1,286,128	1,591,330	1,628,608	1,711,532	1,748,282

Report provided by:

USDA, NASS, Oregon Field Office
 Chris Mertz, Director
 Laura Burgess, Agricultural Statistician
 Ann Clemon, Statistical Assistant

Cooperating with:

Oregon Wine Board
 Oregon Wine Growers Association
 Oregon Department of Agriculture

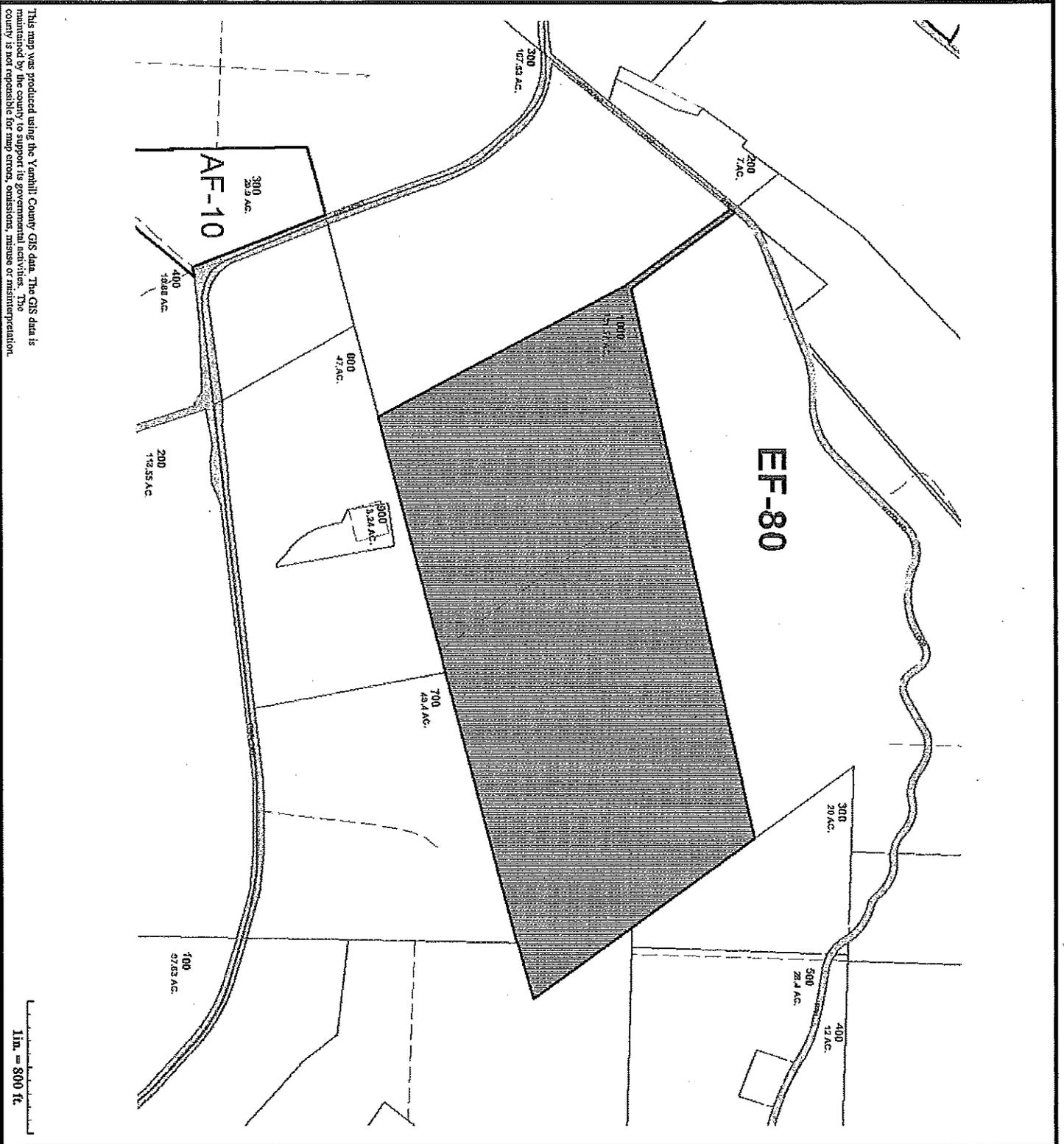
PROPOSED PARTITION MAP:

Laurent and Danielle Montabieu

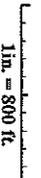
Location: Section 1 T. 3 S., R. 4 W., WM.,
 17100 NE Woodland Loop Rd. Yamhill County, OR
 Tax Lot 3401-1000
 Date: 23 January, 2009

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 lot line adjustments per Instrument #200012848, 200012849, 200012850, 200012851, 200012852, 200012853, 200012854, 200012855, 200012856, 200012857, 200012858, 200012859, 200012860, 200012861, 200012862, 200012863, 200012864, 200012865, 200012866, 200012867, 200012868, 200012869, 200012870, 200012871, 200012872, 200012873, 200012874, 200012875, 200012876, 200012877, 200012878, 200012879, 200012880, 200012881, 200012882, 200012883, 200012884, 200012885, 200012886, 200012887, 200012888, 200012889, 200012890, 200012891, 200012892, 200012893, 200012894, 200012895, 200012896, 200012897, 200012898, 200012899, 200012900, 200012901, 200012902, 200012903, 200012904, 200012905, 200012906, 200012907, 200012908, 200012909, 200012910, 200012911, 200012912, 200012913, 200012914, 200012915, 200012916, 200012917, 200012918, 200012919, 200012920, 200012921, 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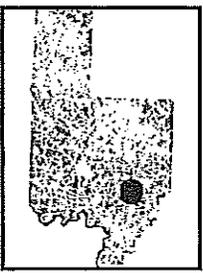


This map was produced using the Yamhill County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.



Yamhill County Map

- County Roads
- State Highway's
- Private Roads
- Parade Grounds
- Taxlots
- right of ways
- taxlot lines
- taxlot polygons
- Taxlots History
- Zoning



2/4/2009



3. Appeal application

Yamhill County Department of Planning & Development
APPEAL APPLICATION

525 NE 4th Street, McMinnville, OR 97128 • Tel: 503-434-7516 • Fax: 503-434-7544
TTY: 800-735-2900 • Website: http://www.co.yamhill.or.us/plan

Date of Filing: 3/12/09
Rec'd By: KB/DF
Receipt #: 74514
Fee \$: 250⁰⁰

This form must be completed and submitted to the Planning Office within 15 days of the date of the decision being appealed, as indicated on the notice of decision. Please complete the application fully, and with as much detail as possible. Please type or print carefully.

Appellant's Name GRAND COW ESTATES, LLC
Address 17100 WOODLAND LOOP, YAMHILL OR 97148
Telephone (home) _____ (work) 503 577 8716

Docket number of decision being appealed: 7-01-09, Tax Lot 3401-1000

The Docket request is: Partition

The decision was made by: Planning Director Planning Commission
The decision being appealed is a(n): Approval Denial Condition of Approval
Person appealing the decision is: the applicant an affected party

If you are an affected party, please explain how you are aggrieved or adversely affected by the decision:

4. Public notice

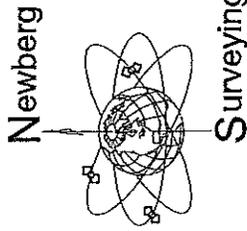
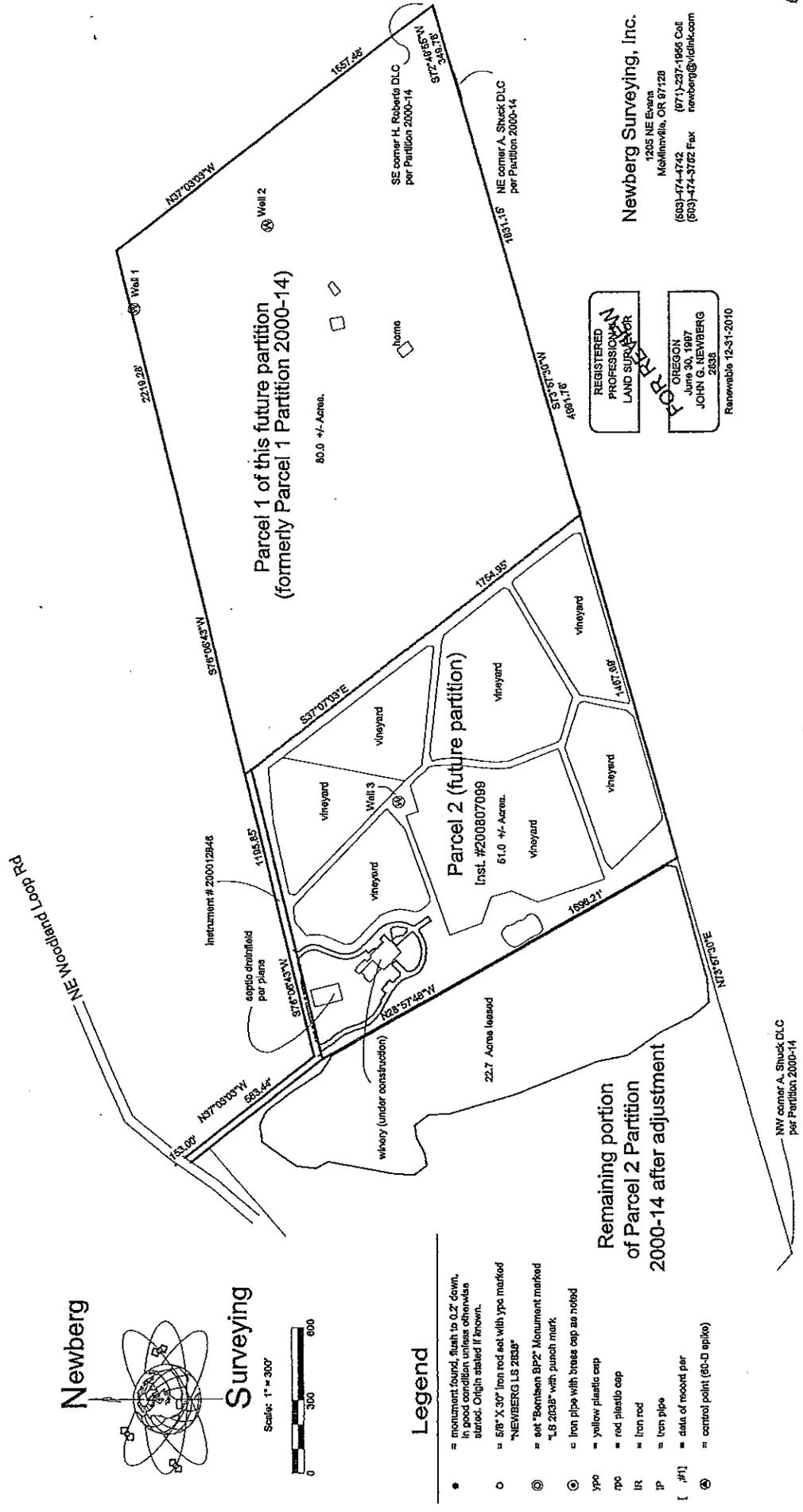
PROPOSED PARTITION MAP:

Laurent and Danielle Montabieu

Location: Section 1 T. 3 S., R. 4 W., WM.,
 17100 NE Woodland Loop Rd., Yamhill County, OR
 Tax Lot: 34071-1000
 Date: 23 January, 2009

Narrative

The purpose of this survey is to prepare a map for a future partition of Parcel 1 of this future partition. The map is prepared without any field verification of monument locations and is based on records per Partition Plat 2000-14, and lot line adjustments per Instrument #2008012846 recorded September 8, 2008, and Instrument #200807099 recorded April 24, 2008. Beala of Beasing is per Partition Plat 2000-14. The location shown of buildings and vineyards are based from aerial photos and construction plans.



Scale: 1" = 300'



Legend

- = monument found flush to 0.2" down, in good condition unless otherwise stated. Origin stated if known.
- = 5/8" X 30" iron rod set with type marked "NEWBERG LS 2838"
- ⊙ = set "Bentzen BIP2" Monument marked "LS 2038" with punch mark.
- ⊖ = iron pipe with brass cap as noted
- ⊕ = yellow plastic cap
- ⊗ = red plastic cap
- ⊘ = iron rod
- ⊙ = iron pipe
- [#1] = date of record per
- ⊙ = control point (60-D spike)

Remaining portion of Parcel 2 Partition 2000-14 after adjustment

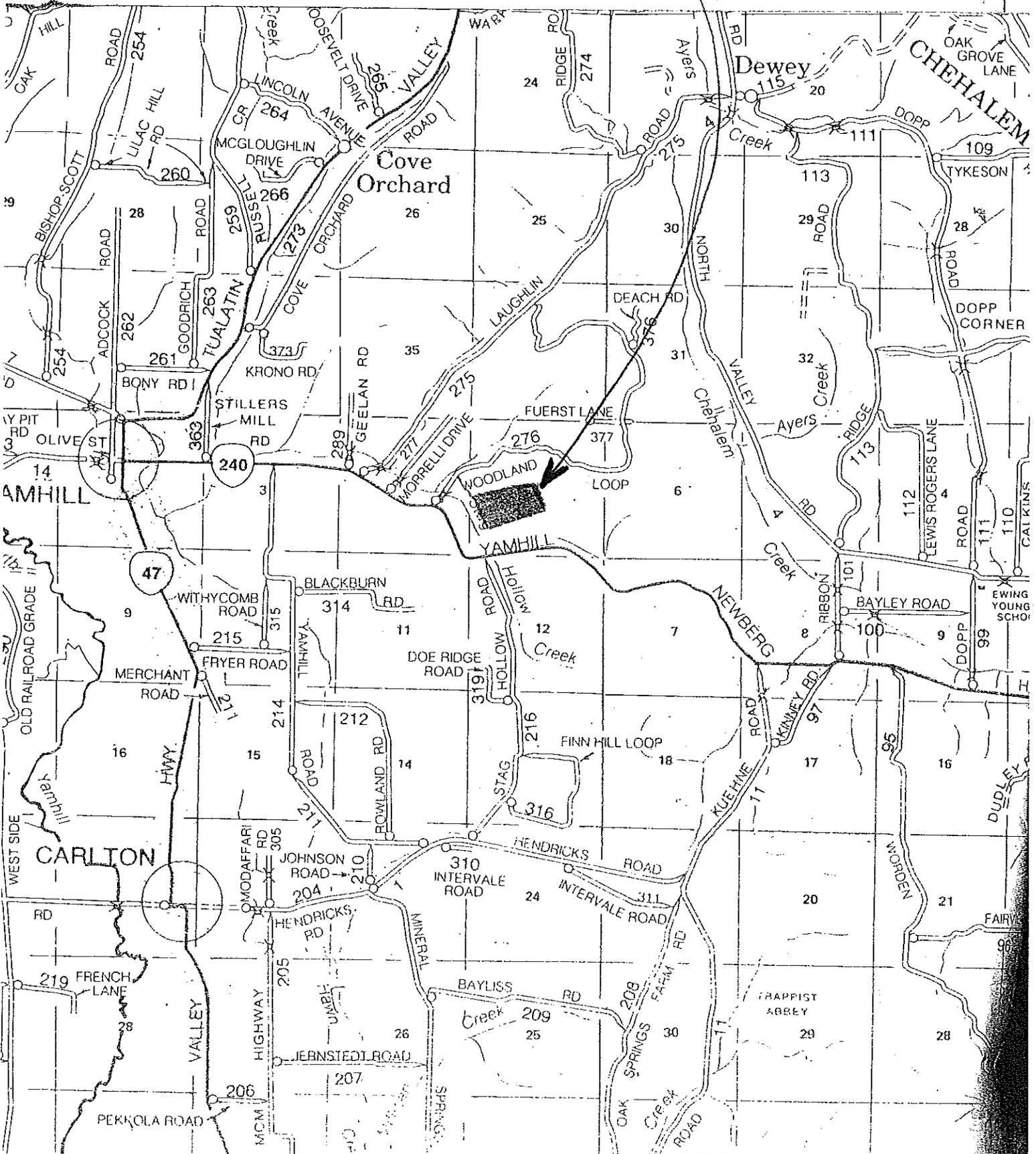
REGISTERED PROFESSIONAL LAND SURVEYOR
JOHN G. NEWBERG
 OREGON
 June 30, 1987
 JOHN G. NEWBERG
 2638
 Renewable 12-31-2010

Newberg Surveying, Inc.
 1205 NE Evans
 McMinnville, OR 97128
 (503)-474-4742 (071)-237-1965 Cell
 (503)-474-3762 Fax newberg@v.dink.com

NW corner A. Shuck DLC
 per Partition 2000-14

VICINITY MAP

LOCATION OF PROPERTY



IV Partition Application - P-01-09

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMinnville, Oregon 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY 800-735-2900 • Internet Address: <http://www.co.yamhill.or.us/plan/>

DATE: May 15, 2009 MS___ KG___ LL___ RS___

TO: The Board of Commissioners

FROM: Ken Friday, Planning Division Manager

RE: **Docket P-01-09 (An appeal of a Planning Director denial of a request to create a 50-acre parcel in an EF-80 Exclusive Farm Use zone. The appeal was submitted by the applicant, Laurent Montalieu.)**

Attached is the record of the above land use request that is scheduled to be heard by the Board of Commissioners on May 20, 2009. As indicated above, this is an appeal of a Planning Director denial of a request to create a 50-acre parcel in an EF-80 Exclusive Farm Use zone. The contents of the record are as follows:

1. Staff Report
2. Application
3. Appeal application
4. Public notice

1. Staff Report

STAFF REPORT
YAMHILL COUNTY PLANNING COMMISSION

DATE: March 9, 2009

DOCKET NO.: P-01-09

REQUEST: To partition an approximately 131.5 acre property into parcels of approximately 51.5 and 80 acres.

APPLICANT: Laurent Montalieu

TAX LOT: 3401-1000

LOCATION: 17090 Woodland Loop Road, Yamhill, Oregon.

ZONE: EF-80 Exclusive Farm use

REVIEW CRITERIA: Section 402.09(B.1) of the Yamhill County Zoning Ordinance and the Yamhill County Land Division Ordinance.

COMMENTS: *Watermaster* - No response to date.
Yamhill County Public Works - No response to date.
Yamhill RFD - No response to date.
SWCD - No response to date.
DLCD - No response to date.

FINDINGS:

A. Background Facts

1. Lot size: 131.5 acres.
2. Access: Woodland Loop Road.
3. On Site Land Use: The proposed 80-acre parcel has a dwelling and approximately 20-acres of planted vineyard. Parcel 2, proposed to be 51 acres, contains the winery and approximately 35 acres of planted vineyard.
4. Surrounding Zoning and Land Use: The area is zoned EF-80. Adjacent lots range in size from 20 to 167 acres. Most of the parcels contain single family residences.
5. Soils: The parcel appears to have a wide variety of soil types. The complete list of soils can be found in the file. The soils chart shows 59.28% is Willakenzie silty clay loam.

STAFF REPORT

Docket P-01-09 Laurent Montalieu

Page 2

6. Water: Proposed to be provided by on-site wells.
7. Sewage Disposal: Proposed to be on-site subsurface septic systems.
8. Taxes: The assessor's office indicated that all but one acre was receiving farm deferral.
9. Previous Actions: A partition was approved in 1999 through P-19-99. A farm dwelling was approved in the year 2000 through Docket FD-08-00 and a lot line adjustment was approved through L-10-08. Finally, a site design review approved a winery in 2008 through SDR-13-08.
10. Reason for the request: The applicant has indicated that he desires to create a parcel smaller than the minimum lot size for financing purposes.¹

B. Ordinance Provisions and Analysis

1. In 1993 the Oregon State Legislature passed House Bill 3661, which became effective November 3, 1993, and mandated an 80-acre minimum lot size for farm and forest zones in western Oregon. It allows smaller minimum lot sizes with the approval of the Land Conservation and Development Commission. Subsequently, Yamhill County adopted new zoning maps on December 29, 1993 which designated the applicant's property with the present EF-80 Exclusive Farm Use zone (with an 80-acre minimum lot size). The Planning Director's decision must be based upon consideration of the following standard found in Section 402.09(B.1) which states:

B. Parcel Size and Dimension.

I. Newly-Created Parcels.

- (a) Any new farm parcel proposed to be created shall be a minimum of 80 acres in the EF-80 district, 40 acres in the EF-40 district, and 20 acres in EF-20 district.*

The applicant is requesting to create a parcel of 51 acres, which is below the 80-acre minimum lot size requirement. The request does not comply with Section 402.09(B.1).

¹In order to put up a portion of land as collateral on a loan, it typically requires a "mortgage partition." This action reserves a portion of land for mortgage purposes, but it does not create a separate parcel unless the loan is foreclosed upon. The applicant has indicated that his lending institution requires the parcel to be separate and will not allow a loan on a "mortgage partition." Therefore, he has submitted this request.

STAFF REPORT
Docket P-01-09 Laurent Montalieu
Page 3

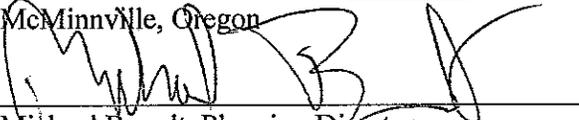
CONCLUSION:

1. The request is to partition an approximately 131.5 acre property into parcels of approximately 51.5 and 80 acres.
2. The request does not comply with Section 402.09(B.1) of the EF-80 zone which requires an 80 acre minimum lot size in the EF-80 zone.

DECISION:

The Yamhill County Planning Director denies the request by Laurent Montalieu for a partition to create parcels of 51.5 and 80 acres from Tax Lot 3401-1000 because one of the parcels does not satisfy the minimum parcel size.

DATED AND SIGNED this 10th day of March, 2009, at
McMinnville, Oregon


Michael Brandt, Planning Director
Yamhill County Planning and Development

MB:kf

2. Application

**YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
 APPLICATION FOR PARTITION**

Docket P-01-09
 Date 1-26-09
 Rec'd By RE/RF
 Receipt # 74146
 Fee **\$876.00**

525 NE Fourth Street, McMinnville, Oregon 97128 (503) 434-7516 FAX: (503) 434-7544

APPLICANT			LEGAL OWNER (IF DIFFERENT)		
Last Name	First	MI	Last Name	First	MI
<u>Montaigne</u>	<u>Laurent</u>	<u>D.</u>			
Mailing Address (Street or PO Box)			Mailing Address (Street or PO Box)		
<u>17100 Woodland loop. P.O. Box 760</u>					
City State Zip			City State Zip		
<u>Yamhill OR 97148</u>					
Telephone			Telephone		
<u>503 577 8716</u>					
PROPERTY INFORMATION					
Tax Lot(s):		Zone:			
<u>3401-1000</u>		<u>EF 80</u>			
Size of original parcel:		Plan Designation:			
<u>130 Acres</u>					
PROPOSED PARTITION					
Parcel #1	<u>80</u> acres	Dimensions:	Width	<u>1657</u>	
		(Average)	Depth	<u>2219</u>	
Parcel #2	<u>50</u> acres	Dimensions:	Width	<u>1754</u>	
		(Average)	Depth	<u>1195</u>	
Parcel #3	_____ acres	Dimensions:	Width	_____	
		(Average)	Depth	_____	

PROPERTY INFORMATION:

1. Is there a septic system on the property? Yes [] No
 If yes, which parcel(s) is the septic system on: Private Home has one and Winery has one
2. How will water be provided? Well: existing _____ proposed
 [] On-site spring or creek [] Water Association (name) _____
3. What road or easement will be used as access? Woodland loop + easement
4. Is the property in a Fire District? Yes Name of Fire District: Yamhill
5. Is the property within two miles of any city limits? No If yes, name of city: _____

PARTITION APPLICATION
Page 2 of 4

6. To your knowledge, do any of the following exist on the property? **NO**
 Floodplain Areas of erosion Steep slopes Fish or wildlife habitat
 Soil limitations for building or septic

7. What is the proposed use of the new parcels (e.g. residence, farm, business)?

(1) Residence + vineyards = 20 acres planted
(2) Winery + vineyards = 35 acres planted

I hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of my knowledge. I understand that issuance of an approval based on this application will not excuse me from complying with other effective ordinances and laws regulating the use of the land and buildings.

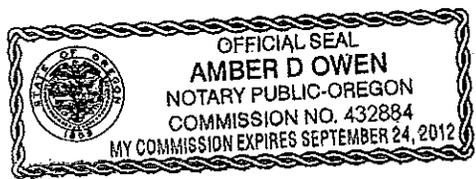
I hereby grant permission for and consent to Yamhill County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.

Applicant's signature [Signature] Date 1/6/08

Property owner's signature (if different) _____ Date _____

State of Oregon)
County of Yamhill)

Signed or attested before me on this 6 day of January, 2009
by Laurent Montalieu



Amber D Owen
Notary Public for Oregon
My Commission expires Sept. 24, 2012

PARTITION APPLICATION
Page 3 of 4

PARTITION APPLICATION PROCEDURES AND FEES

The information supplied in this section applies to most partitions in Yamhill County. There may, however, be additional requirements that will be explained at the time of the pre-application conference.

PREAPPLICATION CONFERENCE This conference involves discussion of the proposal, explanation of zoning and other requirements that pertain to the request, and identification of potential problems. There is no fee for this conference.

SUBMITTAL OF PRELIMINARY PLAT The application must include a preliminary plat on a separate sheet. 8½ x 11 paper is preferred. The plat should be drawn on reproducible paper at a scale no less than 1" to 200'. A copy of an Assessor's map is acceptable to use as a base. The drawing should be labeled as a preliminary plat and include a north arrow, the date, the map scale, and the name, address, and telephone number of the property owner, the owner's representative, applicant, and surveyor. All proposed parcels should be numbered in consecutive order. The estimated dimensions and boundaries of all parcels to be created should be shown, along with the size of each lot in acres or square feet. The preliminary plat should show all existing and proposed access roads, easements, and public rights-of-way, and their dimensions, the location of sewage disposal facilities and wells, if known, and the location of all existing and proposed structures.

PARCEL SIZE AVERAGING In the AF-10, VLDR, and LDR zones, some of the parcels that will be created may be smaller than the minimum lot size, as long as the average size of all of the parcels complies with the minimum lot size. For example, a 30-acre parcel in the AF-10 zone may be partitioned into three parcels, but each parcel need not be ten acres in size as long as the average parcel size is ten acres.

NOTICE Yamhill County is required to send notice of all partition requests to surrounding property owners, and to publish a notice in a newspaper of general circulation in the county, prior to making a decision on the request. The notice distance varies by zone, from 100 to 500 feet. Those people that receive notice, and others that may be affected, can make comments or request that the application be considered at a public hearing before the county Planning Commission. If no one requests a hearing, the Planning Director will make the decision on whether to approve or deny the partition application.

PRELIMINARY DECISION Upon review and recommendation by Planning Department staff, the Planning Director renders a decision to approve, approve with modifications, or deny the request. The decision will be based on whether the application complies with the requirements of the Yamhill County Land Division Ordinance and the standards of the zoning district. The applicant and surrounding property owners will receive written notice of the decision. If the request is approved, the decision will be preliminary, subject to satisfaction of any conditions placed on the approval.

* **APPEALS** The applicant is entitled to appeal a denial or any condition of a preliminary approval to the Board of County Commissioners. Anyone else that is aggrieved by the decision also has the right to appeal. There is a \$250 fee to file an appeal. This fee is refunded if the appellant prevails in the appeal. The Board will hold a public hearing on the appeal, and their decision may be appealed to the state Land Use Board of Appeals.

ROADWAY DEDICATION REQUIREMENTS A maximum of three parcels of land may have access to a public road via one easement. Dedication of a public road to serve the parcels will be required if the partition would result in more than three parcels having access by one easement. Also, if a parcel being partitioned abuts a county road with a right-of-way less than 60 feet wide, additional dedication along the frontage may be required prior to final plat approval.

ROADWAY CONSTRUCTION Generally, all roadways providing access to a new parcel (not driveways to building sites) shall be constructed, or security arranged, prior to final plat approval. If the access is an easement (not dedicated right-of-way), you may enter into a road construction agreement in lieu of the security requirement. Road construction standards are available from the Public Works Department. Fees are available by contacting Public Works or from the Public Works Web site. New accesses on a state highway must be approved by the Oregon Department of Transportation.

* **SURVEY REQUIREMENTS** All parcels resulting from the partition that are 10 acres or less in size, and the centerline of any access easement or new public right-of-way, must be surveyed prior to final plat approval. Fees are Available by contact the County Surveyor or the County Surveyor web site.

SEPTIC APPROVAL REQUIREMENTS New parcels are required to be approved for on-site subsurface sewage disposal prior to final plat approval, unless it can be demonstrated that other sewage disposal facilities are available. The septic site

PARTITION APPLICATION

Page 4 of 4

evaluation is required for all vacant parcels created by the partition. The only way to waive this requirement is if a parcel is labeled on the final plat as nonresidential, and a statement is placed on the face of the final plat attesting that no sewage disposal system will be provided for parcels labeled as nonresidential. The fee for a septic site evaluation is \$490. per lot. In some instances, an evaluation of an existing septic system may also be required when there is a concern about the location of the system and replacement area in relation to the new property lines. The fee for an existing system evaluation is \$349.

FINAL PLAT APPROVAL When all conditions of the preliminary approval have been satisfied and a final partition plat prepared, final approval can be granted. The final plat is prepared by a registered land surveyor, even if no lot or road surveys are required. The property owner must sign the plat in black india type ink (not ball point pen) before a notary public. The plat must be delivered to the County Surveyor's office, where it will be reviewed by the County Engineer and County Surveyor and signed if no deficiencies are found. The plat will be forwarded by the County Surveyor to the Planning Department, where it will be reviewed and signed by the County Sanitarian and Planning Director if all conditions of the preliminary approval have been met. The Planning Department will forward the plat to the County Tax Collector. Before the County Tax Collector will sign the plat, all taxes must have been paid in full. Once the plat has all the necessary signatures, it must be recorded in the deed and mortgage records with the County Clerk. This is the applicant's responsibility. The fee for recording a plat is \$66. The fee for recording other documents, such as a road construction agreement, affidavits, or covenants, is \$26 for the first page and \$5 for each additional page. The final plat must be submitted within one year from the date of preliminary approval, and recorded within 90 days of that date, or the preliminary approval becomes null and void. Please contact the Surveyors Department.

THE APPLICATION MUST INCLUDE:

1. Completed application form, signed by the applicant and property owner (if different). The owner's signature must be notarized.
2. Preliminary plat.
3. Deed or other proof of ownership.
4. Filing fee - \$876.00 (Make check payable to Yamhill County)

NOTE: Fees are not refundable.

YAMHILL COUNTY PLANNING COMMISSION

Thursday July 9, 2009- 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Matt Dunkel, Michael Sherwood, Daryl Garrettson, John Abrams, Alan Halstead, and Bob White. Absent: Dave Polite, Marjorie Ehry **Staff:** Ken Friday and Mike Brandt

Review of the **revised minutes** from the Planning Commission Hearing of May 7, 2009. John Abrams stated he felt the Bypass is a priority, but that the way ODOT was dealing with it was a monumental waste of time. Alan Halstead moved to approve with John Abrams' revision. Seconded by Bob White Passed unanimously.

Chair Garrettson opened the public hearing on Docket PAZ-02-09.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: None.

Mike Brandt read the "raise it, or waive it" statement required by ORS 197.763.

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: PAZ-02-09
REQUEST: Approval of a Comprehensive Plan amendment from Public to Commercial and a zone change from PRO Parks, Recreation and Open Space to RC Recreation Commercial. The purpose of the change is to allow the expansion of the existing bed and breakfast to a "Country Inn" and to allow the serving of evening meals to guests.
APPLICANT: Bruce Bandstra
TAX LOT: 3331-100
LOCATION: 8243 NE Abbey Road, Carlton, Oregon
CRITERIA: Sections 405, 601, 904, and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

Staff Report: Ken Friday gave a brief review of the staff report.

Alan Halstead asked about the zoning of the Abbey. Ken explained that it was PAI.

Darryl Garrettson asked if a Goal 3 Exception was required. Ken stated that a Goal 3 exception was required if it was a reasons exception. In this case the property was a built and committed exception. Daryl asked about traffic. Ken stated that a traffic study would be required by Ordinance 787. Daryl asked about Goal 12. Ken stated that it applies if the use will lower the level of service.

Proponent's Case: Jeff Evans, representing Bruce Bandstra, testified in favor of the request. Mr. Bandstra would like to establish 15 rooms and offer dinners to guests. They have had consistent requests for dinner from their guests because they do not want to be on the road after having a few glasses of wine. Mr. Bandstra noted that they are going to be more

restricted by the RC zone, than by the existing PRO zone because it doubles the minimum lot size. For this reason, Mr Bandstra does not believe a Goal 14 exception should be required. Mr. Bandstra has no objections to the conditions but would like to have one of the conditions modified to allow an evening dinner served to the number of overnight guests. Jeff Evans explained the DLCD letter and their approach to Goal 14. DLCD suggested a limited use overlay to address the issue of Goal 14. That has been suggested in the staff report and he does not have an objection to that approach.

Bob White asked about the limit of 3,500 square feet. Jeff Evans explained how commercial uses in the rural area are limited to 3,500 square feet. Mike Sherwood asked if they sold a dinner to someone who was not a guest, would they do it several times a night? Bruce said no, they would only sell on dinner. Matt Dunckel asked if the total building size of 3,500 square feet was the total additional building size. Bruce said yes, that was the total additional size. Daryl Garrettson asked if there was a large gathering, does he prepare the food or is it catered? Bruce said it is catered. Daryl asked if in discussions with DLCD, going from 9 to 15 rooms resulted in an urban use. Ken stated that the limited use overlay was to comply with Goal 14. Ken also pointed out that the minimum lot size is being doubled, so the development ability is being cut in half even without the 3,500 square foot limit.

Opponent's Case: No one spoke in opposition.

Public Agency Reports: Ken reviewed the public agency reports that were in the packet.

Closed public hearing for deliberation.

Staff Recommendation:

Ken Limited Use Overlay to allow uses on the rezoned area to a 15-room Country Inn with the following limits on accessory uses:

The property is not approved for a restaurant.

Lunch or dinner may be served to overnight guests, or an equivalent number of guests, of the Country Inn.

On-site gatherings are limited to no more than 200 people.

Additional construction on the property is limited to a footprint of no more than 3,500 square feet.

Deliberation:

John Abrams: Had no objections to the use. His only concern with the traffic was with getting traffic off an onto Abbey Road.

Alan Halstead: Wanted to increase the number of rooms to 20, so they had some leeway under the zone.

Daryl Garrettson: I don't have a lot of problem with the application, except that we will now get 4 or 5 more requests for applications like this that may not qualify. We all recognize that we need more lodging, but we haven't done the planning work to identify those areas. I could live with 20 rooms. I am concerned about the traffic, but I don't see this use as fundamentally changing the traffic pattern. I could support the application, but I do not want the dinners open to the public, they should be limited to guests of the inn.

Bob White: We need something like this, I support this application.

Matt Dunckel: I support this application.

Alan Halstead made a motion to approve the use with a limited use overlay zone for no more than a 20 room Country Inn with the following limits on the accessory use:

The property is not approved for a restaurant.

Lunch or dinner may be served to overnight guests of the Country Inn.

On-site gatherings are limited to no more than 200 people.

Additional construction on the property is limited to a footprint of no more than 3,500 square feet.

Michael Sherwood seconded. Motion passed 6-0.

Chair Garrettson opened the public hearing on Docket Z-01-09.

Abstentions, Objections to Jurisdiction, Ex Parte Contact: None.

Daryl Garrettson asked if anyone in the audience had not been present for the "raise it, or waive it" statement required by ORS 197.763.

DOCKET NO.: Z-01-09
REQUEST: Zone change from EF-80 Exclusive Farm Use to EF-40 Exclusive Farm use.
APPLICANT: Laurent Montalieu
TAX LOT: 3401-1000
LOCATION: 17100 NE Woodland Loop Road, Yamhill
PARCEL SIZE: 131 acres
CRITERIA: Sections 402, 403 and 1208.03 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

Staff Report: Ken Friday presented the staff report.

Matt Dunckel asked if he understood correctly that this was to get a tax lot for mortgage purposes? Ken stated that was correct. Matt asked why he couldn't do that with a mortgage partition. Ken stated that the applicant has indicated he has gone to a several lending institutions and found that they would not accept a mortgage partition. Daryl asked how we deal with the 160-acre requirement? Ken stated that it needs to be the same designation of zone. In this case the designation is EF - Exclusive Farm. This same EF-designation will exist in the surrounding area, only the minimum lot size will change.

Proponents Case: Charles Harrell is representing Laurent Montalieu. The primary reason for the zone change is to divide the property for financing purposes. However, each of the resulting lots would be able to easily satisfy the \$80,000 gross sales. Mr. Harrell did offer to only have the EF-40 zone follow the proposed lot line and encompass the 51 acres. That way they would be able to obtain the financing that they need while not allowing further division of the remaining 80 acre parcel. Mr. Montalieu stated this was his 20th harvest in Oregon. He said in 1994 he moved to Yamhill County. He said he and his wife bought the 80 acres and he always had a dream of having a house and a vineyard. They have developed

an organic vineyard on top. Last year an opportunity came around to purchase an additional 51 acres adjacent to the property. Mr. Montalieu stated he is surrounded on three sides by vineyards. He was aware that there was an option for a mortgage partition, but unfortunately, the banks will no longer accept this method. Right now on the 51 acres, there are 35 acres of planted vineyard. Mr. Montalieu stated that this should gross about \$350,000 per year, so the 51 acres would still be a viable commercial farm.

Questions:

Opponents Case: No one spoke in opposition

Ken Friday stated that there were no **public agency comments**.

Staff Recommendation: Ken stated that this application brought up several interesting policy questions. We do believe that the applicant is in a financial bind and that the financing is important to the viability of his continued farm use. Due to the modified request to just involve the 51 acres in the EF-40 zone, our office recommends approval of the request.

Closed public hearing for deliberation.

Matt Dunckel stated he agrees with the staff. If that is what the lending institutions are doing then it puts them in a hard spot.

Bob White stated he agrees with the staff. He commends him on not going for 40 acre zoning on all of the lot but only on what he needs for financing.

Daryl Garrettson stated that when the wine industry started in this county that no one would finance a winery, so the County created the RI Resource industrial zone. As far as the size for a commercially viable vineyard 20-acres in commercially viable, so he does not have a problem with zoning the entire parcel EF-40. The main thing that concerns him with this application is the requirement for 160-acres of the same designation. Mike Brandt said we had approved another zone change with 160-acres of a similar designation, so this isn't that new to this Commission. Mike does not dispute that this may not get passed by LCDC due to this issue, but this was our reading on a similar application. Michael Sherwood stated he agreed with staff., he thinks they qualify.

John Abrams go along with the staff recommendation. He is concerned with the potential for other situations like Mr. Montileau. Mike Brandt stated that this is an example of why there needs to be more local control.

Alan Halstead stated he agreed with the staff recommendation.

Alan Halstead moved to approve rezoning from EF-80 to EF-40 for 51 acres with the staff findings for approval. Seconded by Michael Sherwood. Approved unanimously 5-0 with Daryl Garrettson abstaining.

Other business:

Candidates for the Yamhill County Planning Commission were questioned by the Planning Commission members.

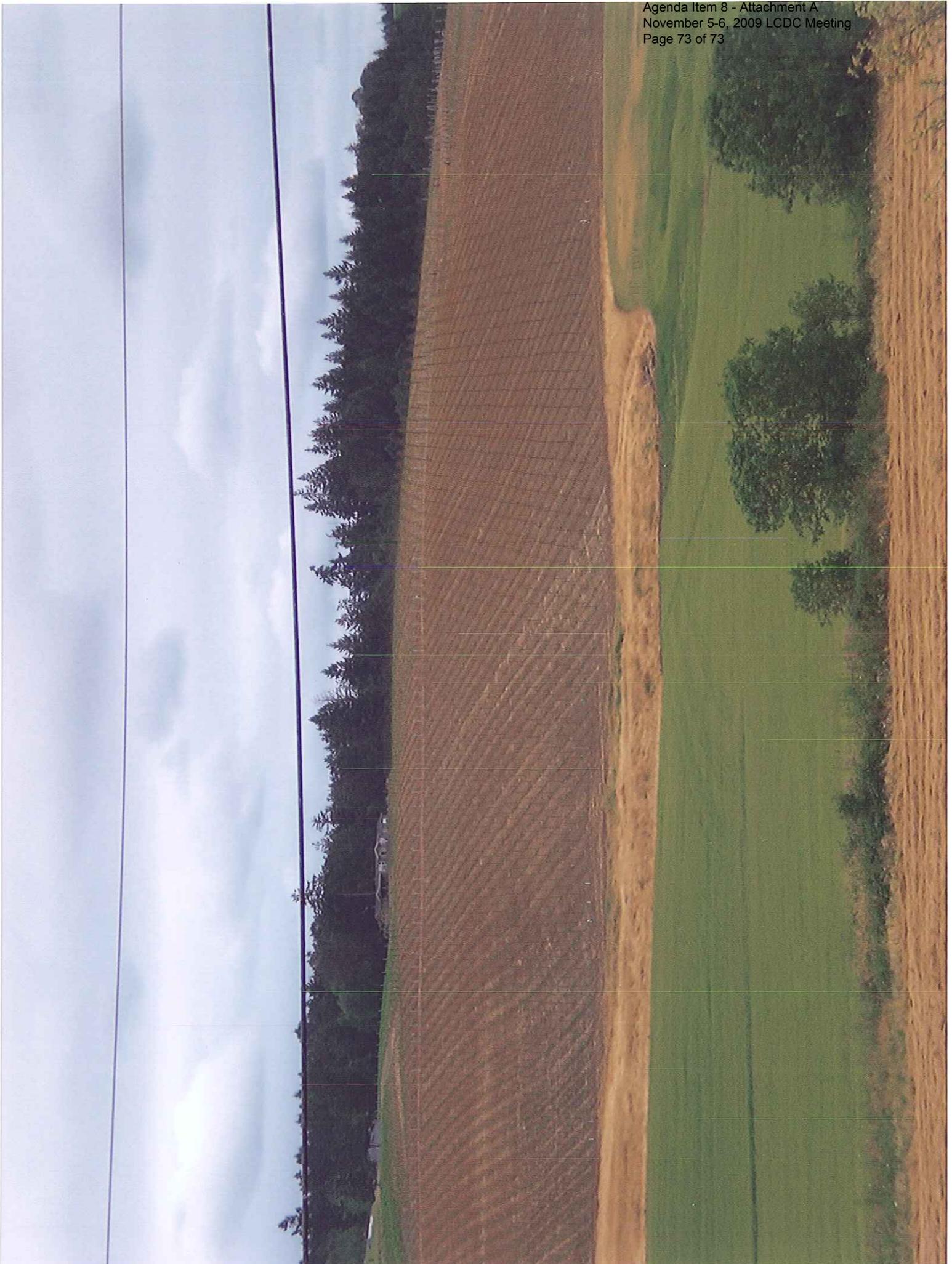
Adjourn: Planning Commission hearing adjourned at 9:20 PM.













Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Director's Office

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



October 27, 2009

Mike Brandt, Planning Director
Yamhill County Department of Planning and Development
525 NE 4th Street
McMinnville, OR 97128-4573

SUBJECT: Yamhill County Zone Change - EFU Minimum Lot Size Approval
Agenda Item 8, November 5, 2009, LCDC Meeting

Dear Mike:

The purpose of this letter is to describe the procedure that we have agreed to follow for the EFU minimum lot size hearing for Laurent Montalieu before the Land Conservation and Development Commission at the commission meeting on November 5, 2009, in Springfield, Oregon. The request and conditional approval forwarded from Yamhill County for commission review is to rezone 51 acres of land located at 17090 Woodland Loop Road, Yamhill, OR, owned by the applicant, Laurent Montalieu, from EF-80 with a minimum lot size of 80 acres to EF-40 with a minimum lot size of 40 acres.

We have agreed to follow the following procedure for the commission's review of this matter:

1. The parties to the proceeding are Yamhill County, Mr. Montalieu, and the department (no other persons having appeared before the county).
2. The department is preparing a report for the commission regarding whether the proposed rezoning complies with the standards in ORS 215.780(2)(a) (which in turn reference ORS 215.243 and ORS 527.630 and the statewide land use planning goals), and section 1208.03 of the Yamhill County Zoning Ordinance. These are the legal standards for the county's decision. That report will be sent to the county and Mr. Montalieu's attorney by email later today (October 27, 2009).
3. Mr. Montalieu and the county have until the close of business (5pm) next Tuesday (November 3, 2009) to submit written exceptions to the department's report. The county and Mr. Montalieu may also submit additional evidence to the commission. We understand that any new evidence submitted will be short (so that the commission has the opportunity to consider it fully at the hearing). Any materials should be submitted via email to Gary Fish and Richard Whitman (gary.fish@state.or.us and richard.whitman@state.or.us)
4. The written record for the commission will consist of the county's record in this matter as transmitted by Mr. Friday to Mr. Fish by memo dated August 7, 2009 (copy attached);

Mike Brandt
October 27, 2009

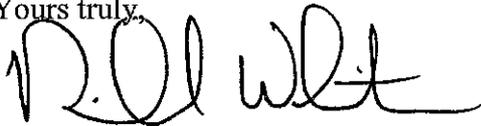
Page 2 of 2

the department's report on this matter; and any exceptions to the department's report and new evidence filed by the county or by Mr. Montalieu.

5. The hearing on this matter will be before the Land Conservation and Development Commission on November 5, 2009. The location of the hearing is in Springfield, Oregon, at Springfield City Hall Council Chambers, 225 Fifth Street. No time certain has been set for the hearing, but we currently expect the hearing to begin in the late morning or early afternoon of that day. The commission will hear a verbal report from staff; then will hear argument from the county and Mr. Montalieu; and will then have an opportunity to ask questions.

Should you have any additional questions or concerns, please don't hesitate to contact Gary Fish, Willamette Valley Regional Representative, at 503-373-0050, ext. 254, or by e-mail at gary.fish@state.or.us.

Yours truly,



Richard Whitman
Director
Oregon Department of Land Conservation and Development

enclosure

cc: Charles Harrell, attorney for the applicant (via email only)
Laurent Montalieu, applicant (via email only)



DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

February 14, 1997

Tom Bunn, Chairman
Board of Commissioners
County Courthouse
535 East Fifth Street
McMinnville, Oregon 97128

Dear Chairman Bunn:

I am pleased to inform you that the Director of the Department of Land Conservation and Development (DLCD) has determined that Yamhill County has completed periodic review (See enclosed Order). It has been a long and, at times, difficult process, but Yamhill County officials and staff are to be commended for their efforts to finally complete periodic review.

State law (OAR 660-25-210-(1)) requires that local governments submit complete and accurate copies of its comprehensive plan and land use regulations bearing the date of adoption (including plan and zone maps bearing the date of adoption) within six months following completion of periodic review.

Documents must be accompanied by a statement signed by the Planning Director or other city official certifying that the materials are an accurate copy of current planning documents and that they reflect changes made as part of periodic review. These materials may be either a new printing or an up-to-date compilation of the required materials, or they may be submitted to the department on a double sided high density 3.5 or 5 1/4 inch computer disk for Word Perfect 5.2 or Word Perfect for Windows 6.0a.

Please submit one copy of a new printing or an up-to-date compilation, or a computer disk as specified above with a signed statement certifying that the materials on the disk are accurate and current planning documents by **August 14, 1997**. Please use the enclosed certification form as the cover sheet for your submittal.

John A. Kitzhaber
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
OF THE STATE OF OREGON**

IN THE MATTER OF THE PERIODIC REVIEW)	
OF THE COMPREHENSIVE PLAN AND LAND)	
USE REGULATIONS FOR YAMHILL COUNTY)	DIRECTOR'S TERMINATION
GOAL 3: MINIMUM LOT SIZES)	ORDER 97-TERM-736

This matter came before the Director on February 7, 1997, as a final periodic review order pursuant to ORS 197.641, the Commission's Periodic Review Rule, OAR 660-19-000 to 660-19-110 and the Commission's Periodic Review Remand Order 94-REMAND-931. The Director, having fully considered the Yamhill County final periodic review order, comprehensive plan and land use regulations regarding the establishment of minimum lot sizes under Goal 3, and comments and objections of interested parties, now enters these:

Findings of Fact

1. Between December 17, 1987 and May 27, 1994, the Land Conservation and Development Commission, pursuant to former ORS 197.640 to 197.647 and OAR Division 19, adopted several orders, including findings, that explain how Yamhill County's final periodic review order and the county's amendments to its acknowledged comprehensive plan and land use regulations complied or did not comply with the statutory requirements of periodic review, the statewide planning goals and other statutory requirements. These Orders either sustained portions of Yamhill County's periodic review order and plan and land use regulations that complied with the statutory and statewide planning goals or required Yamhill County to adopt certain amendments to its periodic review order, plan and land use regulations in order to meet the requirements of periodic review and state law. These Orders are:

- No. 87-RA-306, December 24, 1987;
- No. 89-RA-556, August 2, 1989;
- No. 91-RA-792, October 28, 1991;
- No. 91-RA-809, December 23, 1991; and
- No. 94-REMAND-931 and No. 94-SUSTAIN-932, both dated June 20, 1994 (Exhibits A).

2. The findings previously adopted by the Commission as part of the Orders listed in #1 above, which explain why Yamhill County's comprehensive plan and land use regulations comply with statutory and statewide planning goals and requirements pertaining to periodic review, are readopted by this order as findings of the Commission.

3. With respect to this review, Commission Review Order No. 94-REMAND-931, dated June 20, 1994, required Yamhill County to do the following:

"1. Yamhill County shall amend its comprehensive plan, land use regulations and periodic review order to meet the statutory and rule requirements for periodic review as explained in the Director's May 16, 1994 revised report. These requirements are:

(a) Amend its AF zone (Section 403.11(B)(2)) to require that lot-line adjustments retain the same number of parcels larger and smaller than the specified minimum lot size; and either:

(b) Amend its plan policies and zoning code to provide for the Commission's review and approval of all plan amendments involving the change of a minimum lot size for properties in a specific area to a different minimum lot size less than 80 acres, or

* (c) Amend the plan and zoning code to include specific clear and objective criteria which ensure only areas that comply with the requirements set forth in ORS 215.780(2) can be redesignated to a minimum lot size less than 80 acres.

2. If Yamhill County completes the planning work as specified by requirements (a) and (b) above, and submits it to the Director pursuant to OAR 660-19-075 to 660-19-090, the Director shall issue a Director Termination Order pursuant to OAR 660-19-085(1)(a). However, if Yamhill County chooses to complete the planning work specified by requirement (a) and (c) above, Yamhill County shall submit it to the Director pursuant to OAR 660-19-075 to 660-19-090 and the Director shall prepare and submit a report to the Commission pursuant to OAR 660-19-085(1)(b)."

4. On January 7, 1997, Yamhill County submitted amendments to its periodic review order, comprehensive plan and land use regulations in response to the requirements listed above, (County Ordinance No. 618: Exhibit B). A review of Ordinance 618 by the Director finds that this ordinance adopts specific amendments to Section III (A) Agricultural Lands of Yamhill County plan and Sections 403.11 and 1208.03 of the Yamhill County zoning code to incorporate the requirements of the Commission's Remand Order No. 94-RA-931 Nos. 1(a) and (b) set forth in Finding No. 3 of this Order. The Director, pursuant to OAR 660-19-085, conducted a review of Ordinance No. 618 for compliance with the Commission's Remand Order No. 94-RA-931

Conclusions

1. Based this review, the Director finds that Yamhill County's periodic review order and the comprehensive plan and land use regulations meet the requirements of the periodic review factors of ORS 197.640 for the reasons set forth in Finding No. 4 this Order and the previous Orders of the Commission listed in Finding 2 of this Order, which are made a part of and readopted by this Order.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Director of the Department of Land Conservation and Development terminates the Yamhill County periodic review.

Dated this 14th day of February 1997.



Richard P. Benner, Director
Department of Land
Conservation and Development

NOTICE: Objectors are entitled to review of this order by the Oregon Land Conservation and Development Commission. Commission review may be obtained by filing an appeal of the Director's action within 30 days from the mailing of this final order. Commission review is pursuant to the provisions of ORS 197.645 and 197.647.

** Copies of all exhibits are available for review at the Department's office in Salem.

[p:periodic\yamterm]

CERTIFICATION
FOR

The following plan and land use regulation material is being submitted to DLCD as a Current Plan/Ordinance (Codified Plan) under statutory and rule requirements. Attached are three copies of the following documents:

- (1) Comprehensive Plan (including inventory or other materials referenced in the plan)
- (2) Zoning Ordinance/Development Code
- (3) Subdivision Ordinance
- (4) Comprehensive Plan Map (bearing date(s) of adoption)
- (5) Zone Map (bearing date(s) of adoption)
- (6) UGB Management Agreement (if not in the plan)
- (7)
- (8)

I have reviewed the attached plan documents for _____ which are referenced above. I certify that it is complete and accurate to the best of my knowledge, and includes all amendments made during the periodic review process.

NAME

TITLE

DATE

NOTE: Please indicate whether these documents are:
_____ a new printing; or
_____ an updated compilation of required materials.

I hereby certify that on FEBRUARY 18, 1997, I served a true and correct copy
of the YAMHILL COUNTY PERIODIC REVIEW
by mailing certified, first class postage, state shuttle, hand delivery or by bus to the
attached persons.

Dated this 18th day of FEBRUARY, 1997

Signed Wendy Sheehan
Mailroom Secretary

This certificate was reviewed for completeness by Deane Butts

Dated Feb. 18, 1997

18 FEB 97:

LETTER TO CHAIRMAN TOM BUNN MAILED FEBRUARY 14, 1997

W. Sheehan

Oregon Department of Land Conservation and Development

362	1000 FRIENDS OF OREGON 534 SW 3RD AVE PORTLAND		300 WILLAMETTE BLDG 97204
		OR	
23124	ADELSHEIM 22150 NE QUARTER MILE LN NEWBERG	DAVID	97132
		OR	
23119	ALLISON 23701 WALLACE RD NW SALEM	GARY	97304
		OR	
5577	BATSON 1000 FRIENDS OF OREGON 534 SW 3RD AVE PORTLAND	F BLAIR	300 WILLAMETTE BLDG 97204
		OR	
845	BIRCH DEPT OF FORESTRY 2600 STATE ST SALEM	KEVIN	97310
		OR	
920	BRANDT, YAMHILL CO PLANNING DEPARTMENT 535 E 5TH ST MCMINNVILLE	MICHAEL	DIRECTOR COURTHOUSE 97128-4523
		OR	
23299	BUNN, BOARD OF COMMISSIONERS COUNTY COURTHOUSE MCMINNVILLE	TOM	CHAIRMAN 535 E FIFTH ST 97128
		OR	
23129	DAUENHAUER 16425 SE WEBFOOT RD DAYTON	CARL J	97114
		OR	
23120	DAVENPORT 6855 BREYMAN ORCHARDS DAYTON	JOAN	97114
		OR	
23117	DOCHEZ PO BOX 27 DUNDEE	MARC	97115
		OR	
23121	ERATH PO BOX 667 DUNDEE	RICHARD	97115
		OR	
19431	FISH ECONOMIC DEV DEPT 775 SUMMER ST NE SALEM	ART	97310
		OR	
838	FOSTER OREGON HOUSING & COMM SERVICES 1600 STATE ST SALEM	DAVID B	97310-0161
		OR	

Oregon Department of Land Conservation and Development

20271	GEISEN, WATER RESOURCES DEPT 158 12TH ST NE SALEM	REBECCA L	LAND USE COOR COMMERCE BLDG 97310
			OR
23111	GLADHART PO BOX 160 LAFAYETTE	EMILY & PETER	97127
			OR
22627	GRAY, JR YAMHILL COUNTY COUNSEL 535 E 5TH ST MCMINNVILLE	JOHN M	97128
			OR
6908	HALLYBURTON, MARION COUNTY PLANNING 285 CHURCH ST NE SALEM	ROB	PRIN PLAN ROOM 160 97310
			OR
23118	HART 30835 N HWY 99W NEWBERG	PAUL	97132
			OR
23110	HENTZ 460 RUSS CT MCMINNVILLE	DAVID	97128
			OR
23130	INGRAHAM 4875 MILLIES LN AMITY	JOHN D	97101
			OR
3146	JOHNSON DEPT OF AG/ NATURAL RES DIV 635 CAPITOL ST NE SALEM	JIM	97310
			OR
23112	KREUTNER 15225 N VALLLEY RD NEWBERG	TOM	97132
			OR
3263	LAND USE TEAM DEPT. OF PARKS & RECREATION 1115 COMMERCIAL ST NE SALEM		97310
			OR
23131	LAWTON 20990 NE KINGS GRADE NEWBERG	T KEITH	97132
			OR
7780	LILLY DIVISION OF STATE LANDS 775 SUMMER ST NE SALEM	JOHN	97310
			OR
19543	MABBOTT MORROW COUNTY PLANNING DEPT PO BOX 705 IRRIGON	TAMRA	DIRECTOR 97844
			OR

Oregon Department of Land Conservation and Development

23125	MACDONALD LANDSCAPE ARCHITECT 510 NW THIRD AVE PORTLAND	LAUREL	OR	STE 107 97209
23123	MACDONALD 4051 SW VIRGINIA WAY LAKE OSWEGO	WILLIAM H	OR	97035
23128	MCELLIGOTT 18150 AMITY VINEYARD RD AMITY	PATRICK	OR	97101
23126	MEDICI 28005 NE BELL RD NEWBERG	HAL	OR	97132
36	MINER OMHA 2255 STATE ST SALEM	DON	OR	97301-4516
834	OLMSTEAD DEPT OF GEOLOGY & MINERAL IND. 880 NE OREGON ST PORTLAND	DENNIS	OR	#28 97232
1667	PETERSON US FISH & WILDLIFE SERVICE 2600 SE 98TH AVE #100 PORTLAND	RUSSEL	OR	97266-1302
9621	PHELPS HEALTH DEPT-D.W.S. 800 NE OREGON, STE 611 PORTLAND,	DAVE	OR	STATE OFFICE BLDG 97232
23122	PRICE 14701 NW FIR CREST RD CARLTON	RICK G	OR	97111
20272	RUSSELL ODOT 555 13TH ST SALEM	PETER	OR	97310
8835	SNOW DEPT OF FISH AND WILDLIFE 2501 SW FIRST AVE PORTLAND	PATTY	OR	97206
23127	TRUDELL PO BOX 1017 NEWBERG	RICHARD	OR	97132
23114	VANDEWALLE 16661 WILLIS RD MCMINNVILLE	JIM	OR	97128

Oregon Department of Land Conservation and Development

2115	VIEHDORFER, OREGON AERONAUTICS DIVISION 3040 SE 25TH ST SALEM	GARY	MGR., AVIATION PLNG MCNARY FIELD 97310
			OR
23113	WEBER PO BOX 148 DUNDEE	ARTHUR	97115
			OR
23115	YOUNG 24810 NW TURNER CREEK RD YAMHILL	GEORGE G	97148
			OR
2052	YOUNG, DEPT OF ENVIRONMENTAL QUALITY 811 SW 6TH PORTLAND	ROBERTA	MSB 97204
			OR
23116	ZARNOWITZ MARK HUFF PO BOX 577 YAMHILL	JILL	97148
			OR
23132	ZARNOWITZ MARK HUFF 7930 BLACKBURN RD NE YAMHILL	JILL	97148
			OR



DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

June 20, 1994

The Honorable Debi Owens, Chair
Yamhill County Board of Commissioners
Courthouse
535 E. 5th
McMinnville, Oregon 97128

Dear Chair Owens:

On May 27, 1994, the Land Conservation and Development Commission acted on Yamhill County's final periodic review order regarding the Goal 3 minimum lot sizes and farm dwelling standards and Walker Creek under Goal 5.

The Commission's orders sustain the county's periodic review order except with respect to certain provisions governing: (1) lot line adjustments; and (2) future zone changes from zones with an 80 acre minimum lot size to resource zones with minimum lot sizes below 80 acres. Enclosed are the two Commission orders and the amended staff report.

The Commission's remand order provides two options for satisfying these requirements (please refer to Order 94-REMAND-931). If the county chooses option a and b, I will be able to sign an order approving your periodic review. If the county chooses option a and c, a review before the Commission is required. The amendments specified in the order are to be completed and submitted to the department by October 18, 1994.

In sustaining the majority of the county's order, the Commission (and department) recognized the magnitude of Yamhill County's effort in completing periodic review (initiated in 1985). The department is committed to working with the county to finish the remaining tasks and continue to cooperate with the county in other planning matters.

Barbara Roberts
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

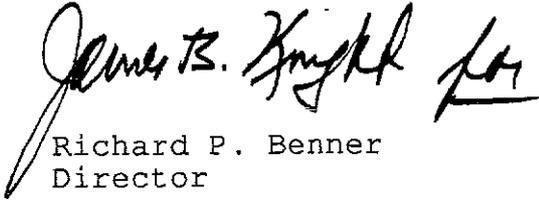
Debi Owens

-2-

June 20, 1994

Please call Mel Lucas at 378-2472 (general), Ron Eber at 373-0090 (agriculture and forest issues) or Doug White at 373-0083 (Goal 5), if you have any questions.

Sincerely,



Richard P. Benner
Director

RPB:DW/deb
<orders>

Enclosures

cc: Michael Brandt, Planning Director
John M. Gray Jr., County Council
Blair Batson, 1000 Friends of Oregon
Laurel MacDonald
Mel Lucas, Field Representative
Jan Ard, Assistant Attorney General
PR Files (MJR, RE, DW, Libr(2))

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF THE PERIODIC)
REVIEW OF THE COMPREHENSIVE)
PLAN AND LAND USE REGULATIONS) COMMISSION'S REVIEW ORDER
FOR YAMHILL COUNTY GOAL 3:) 94-REMAND-931
MINIMUM LOT SIZES/FARM DWELLINGS)

This matter came before the Land Conservation and Development Commission on May 27, 1994, as a final periodic review order pursuant to OAR 660-25-200 (the Commission order establishing dates), former ORS 197.640 to 197.647 and the Commission's Periodic Review Rule, OAR 660, Division 19. The Commission, having fully considered Yamhill County's periodic review order, comprehensive plan and land use regulations regarding the establishment of minimum lot sizes and provisions regarding the review of farm dwellings under Goal 3, comments and objections of parties who filed timely objections, and the written report of the Director of the Department of Land Conservation and Development, now enters its:

Findings of Fact

1. On August 2, 1991, September 19, 1991, November 8, 1991 and December 13, 1993, the Land Conservation and Development Commission, pursuant to former ORS 197.640 through 197.647 and the Commission's Periodic Review Rule, OAR 660, Division 19, adopted "Required Amendments Remand Order" (91-RA-809, Exhibit A) for Yamhill County. The findings previously adopted by the Commission as part of the above order, which explain why the county's comprehensive plan and land use regulations relating to the establishment of minimum lot sizes and the review of farm dwellings under Goal 3 do not meet certain periodic review factors, are readopted by this order as findings of the Commission.

Yamhill County

-2-

2. Yamhill County and 1000 Friends of Oregon appealed the Commission's Order (91-RA-809) to the Court of Appeals.

3. On July 7, 1993, the Court of Appeals issued a decision upholding the Commission's order regarding the issues under Goal 3. On December 8, 1993, the Oregon Supreme Court denied review of this decision (Exhibit B).

4. On December 18, 1992, Yamhill County submitted amendments to its periodic review order, comprehensive plan and land use regulations in response to the Commission's order (91-RA-809) regarding the issues under Goal 3 (Exhibit C).

5. On May 27, 1994, the Commission reviewed Yamhill County's final periodic review order, the written revised report of the Director dated May 16, 1994, and the comments and objections of the parties who filed timely objections. The Commission adopted the Director's revised May 16, 1994, report (Exhibit D).

6. The Commission's Order (91-RA-809) required Yamhill County to revise its exclusive farm use (EFU) zones to comply with certain provisions regarding the approval dwellings "customarily provided in conjunction with farm use." However, the Commission's legal counsel advised and the Commission agreed that, in considering the county's farm dwelling provisions, the Commission need not determine whether they are consistent with the 1985 statutes and rules implementing Goal 3 that was in effect at the time the county submitted its periodic review order. The county and 1000 Friends agreed that compliance with those 1985 statutes and rules is moot because those 1985 statutes and rules have been substantially amended. Specifically, the old 1985 statutes and rules regarding the approval of farm dwellings are not consistent with the Commission's new rule requirements for farm dwellings on High Value and non High Value Farmland (OAR 660-33-135). These new requirements became effective and applicable on March 1, 1994 and apply directly to the county's land use decisions until the county amends its plan and ordinances to implement these changes.. The Commission concluded that the county's comprehensive plan and land use regulations are

consistent with Goal 3 to the extent that the county applies the new 1994 Goal 3 rules regarding the approval of farm dwellings as required by OAR 660-33-135 pursuant to ORS 197.646.

7. Based on this review and the rationale in the Director's revised May 16, 1994 report, the Commission found that Yamhill County's periodic review order, comprehensive plan and land use regulations require additional amendments, as specified in the Director's revised report.

Conclusion

Based on the foregoing findings and the Director's report, the Commission concluded that Yamhill County's periodic review order and comprehensive plan and land use regulations involving compliance with the Goal 3 minimum lot size standard require additional amendments in order to meet statutory goal and rule requirements for periodic review. The required amendments specified in the Director's revised report can be completed and submitted to the departments by **October 18, 1994**.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Yamhill County shall amend its comprehensive plan, land use regulations and periodic review order to meet the statutory and rule requirements for periodic review as explained in the Director's May 16, 1994 revised report. These requirements are:
 - a. Amend its AF zone (Section 403.11(B)(2)) to require that lot-line adjustments retain the same number of parcels larger and smaller than the specified minimum lot size; **and either:**
 - b. Amend its plan policies and zoning code to provide for the Commission's review and approval of all plan amendments involving the change of a minimum lot size for properties in a specific area to a different minimum lot size less than 80 acres, **or**
 - c. Amend the plan and zoning code to include specific clear and objective criteria which ensure only areas that comply with the requirements set forth in ORS 215.780(2) can be redesignated to a minimum lot size less than 80 acres.

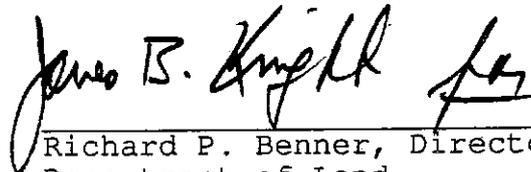
Yamhill County

-4-

2. If Yamhill County completes the planning work as specified by requirements (a) and (b) above, and submits it to the Director pursuant to OAR 660-19-075 to 660-19-090, the Director shall issue a Director Termination Order pursuant to OAR 660-19-085(1) (a). However, if Yamhill County chooses to complete the planning work specified by requirement (a) and (c) above, Yamhill County shall submit it to the Director pursuant to OAR 660-19-075 to 660-19-090 and the Director shall prepare and submit a report to the Commission pursuant to OAR 660-19-085(1) (b).

DATED THIS 20TH DAY OF JUNE 1994.

FOR THE COMMISSION:



Richard P. Benner, Director
Department of Land
Conservation and Development

NOTE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 183.482, 197.644 and 197.650.

** Copies of all exhibits are available for review at the department's office in Salem.

RPB:RE/deb
<orders>

Attachment 1
Agenda Item 10.1
5/27/94 LCDC Mtg

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
PERIODIC REVIEW REPORT**

Yamhill County

Response to Required Amendments Orders 91-RA-792 and 91-RA-809

PERIODIC REVIEW NOTICE DATE:
January 7, 1994

FINAL ORDER RECEIVED:
December 29, 1993

COMMISSION ACTION:
May 26-27, 1994

I. ACTION OF THE DIRECTOR

The department has referred the Yamhill County Periodic Review Order to the Land Conservation and Development Commission for resolution of issues under Periodic Review Factor Two.

Recommendation

Yamhill County's plan and land use regulations comply with Goals 3, 4 and 5 for those issues reviewed by the Commission except for: (1) lot-line adjustments in the AF-20 zone, and (2) the provisions which allow future changes of a minimum lot size to a smaller minimum less than 80 acres. (see pp. 21-22 of this Report)

FIELD REPRESENTATIVE: Mel Lucas
Phone: 378-2472

REVIEWERS: Ron Eber (Goal 3)
Phone: 373-0090

Doug White (Goal 5)
Phone: 373-0083

COUNTY PLANNING DIRECTOR: Michael Brandt
Phone: 434-7516

County Counsel: John M. Gray Jr.
Phone: 472-9371

Date of Report: April 21, 1994

Revised **May 16, 1994**

II. BACKGROUND

Yamhill County's comprehensive plan and land use regulations were acknowledged on June 5, 1980. In December, 1985, the department initiated periodic review by issuing a notice to the county about the requirements under periodic review.

On April 15, 1987, Yamhill County adopted a final periodic review order. Upon review, the Land Conservation and Development Commission required the county to amend this order to meet statewide planning goals and statutory requirements.

On January 11, 1989, Yamhill County submitted a revised final periodic review order in response to some of the requirements described in the Commission's "required amendments order". On July 21, 1989, the Commission reviewed the county's amended periodic review order, and concluded that the county had successfully completed periodic review for all issues except: (1) amendments to the EFU zones under Goal 3; and (2) amendments to the plan pertaining to certain resources under Goal 5. The Commission postponed review of the county's historic resources program pending an appeal to the Land Use Board of Appeals.

In September and December, 1990, and March, 1991, Yamhill County again submitted amendments to the plan and land use regulations. In August and September, 1991, the Commission reviewed the county's amended periodic review order and land use regulations. The Commission also reviewed the county's program for historic resources.

On August 2, 1991, and September 19, 1991, the Commission required amendments to the county's plan for Historic Resources, Pigeon Mineral Springs and the Walker Creek area under Goal 5 (Order 91-RA-792). The Commission also required amendments to the county's exclusive farm use zones under Goal 3 (Order 91-RA-793).

Both orders were appealed to the Court of Appeals by Yamhill County (only the Walker Creek portion of 91-RA-793 was appealed). On October 14, 1992, the Court of Appeals issued a decision upholding the Commission's orders for the Walker Creek area.

On December 13, 1991, the Commission required specific amendments to the county's plan and exclusive farm use zones in order to comply with Goal 3 (Order 91-RA-809). This order was appealed to the Court of Appeals by Yamhill County, Oregonians in Action and 1000 Friends of Oregon. On July 7, 1993, the Court of Appeals issued a decision upholding the Commission's order regarding Goal 3. On December 8, 1993, the Oregon Supreme Court denied review of this decision.

On December 18, 1992, the county submitted plan and land use regulation amendments for historic resources and pigeon mineral springs. On March 19, 1993, the Commission reviewed these amendments and concluded that the county adequately addressed periodic review and Goal 5 for historic resources and pigeon mineral springs (93-SUSTAIN-871).

Submittal

On December 29, 1993, Yamhill County adopted Board Order 93-910 and Ordinance No. 565 relating to Goals 3 and 4. DLCD received the submittal on December 29, 1993.

On December 29, 1993, Yamhill County adopted Board Order 93-911 and Ordinance 556 relating to Goal 5 issues concerning Walker Flat. DLCD received the submittal on December 29, 1993.

III. FINDINGS

The requirements described below in **bold type** are from the Commission's "required amendments" orders (91-RA-792, (Goal 5) and 91-RA-809, (Goal 3)):

Requirements under Goals 3 and 4 (Order 91-RA-809)

1. **Adopt 80, 40 and 20 acre minimum lot size plan designations and zones for the specific agricultural subareas of Yamhill County generally set forth on Map Exhibit "B."** The boundaries for these proposed minimums are not intended to be property specific. Rather, it is for Yamhill County to refine and adjust these boundaries based on public involvement and further analysis by their staff. Adjustments may be based on a more detailed analysis of each area's commercial farm units, ownerships, soils, crop types and topography;
2. **Revise its exclusive farm use (EFU) zones consistent with the section of this report entitled "Farm Dwellings on Existing Parcels: "Go Below Provision."** Under the Type Two Review, the Commission is willing to consider an additional provision that allows for a mix of crop types to be counted toward satisfying the acreage requirements of this review standard. The acreage requirement must be the largest of the crop types chosen.
3. **Adopt an interim mixed agriculture/forest plan designation and zone which includes the following:**
 - (a) **Plan policies which require the county to review this area under Goal 4 pursuant to OAR 660, Division 6. The review and application of Goal 4 may result in (1) some of this area being planned and zoned consistent with Goal 4; (2) all or some of this area being planned and zoned for mixed agriculture and forest uses consistent**

with OAR 660-06-057; and (3) some of this area being planned and zoned for exclusive farm use (EFU) consistent with Goal 3;

(b) Application of an EFU zone pursuant to ORS Chapter 215 and OAR 660, Division 5 which includes a case-by-case review of land divisions for farm, forest and nonfarm uses as follows:

(i) Farm Use - 80 acres or appropriate for the continuation of the existing commercial agricultural enterprise in the area pursuant to OAR 660-05-015;

(ii) Forest Use - 80 acres or consistent with OAR 660-06-026(2); and

(iii) Nonfarm Uses - Consistent with ORS 215.263(3); and

4. Adopt plan policies and criteria to guide any proposed plan/zone changes from one minimum lot size to another consistent with Goal 3 and the county's reasons for establishing the location of the proposed minimum lot sizes developed in response to this report. Proposed plan/zone changes to include land in the interim mixed agriculture/forest designation will require the application of Goals 3 and 4.

Nature of this Review and Applicable Standards

This section of the report is confined to a review of Yamhill County's amendments to its plan and ordinances to comply with the requirements specified in the Commission's Remand Order 91-RA-809 set forth above. These amendments deal primarily with:

- (1) The application of the Goal 3 and 4 standards for the establishment of minimum lot sizes less than 80 acres in Exclusive Farm and the Agriculture/Forestry zones; and
- (2) The appropriate designation of the Western Coast Range Foothills subarea on Map Exhibit "B" under Goals 3 and 4.

Yamhill County has also made additional amendments to its plan and ordinances to comply with new state statutes, especially HB 3661, and other new goal and rule provisions. Pursuant to ORS 197.646, compliance with any new statutory, goal or rule provisions need not be subject to periodic review. Therefore, this report addresses those changes made by Yamhill County to comply with the minimum lot size and the designation of the Coast Range Foothills as set forth in the Commission's Remand Order (91-RA-809).

Yamhill County's Response to LCDC Required Amendments Order

On December 29, 1994, Yamhill County adopted Board Order 93-910 and Ordinance No. 565 in response to LCDC Remand Order 91-RA-809. Ordinance No. 565 adopts revised Forestry (F), Exclusive Farm (EF) and Agriculture/Forestry (AF) zones; revised goals and policies to the comprehensive plan; amendments to the zoning code; a justification statement regarding compliance with the Goal 3 and 4 minimum lot size standard; and new plan and zone maps for Yamhill County. The revised Exclusive Farm and Agriculture/Forestry zoning districts respond to the Commission's order regarding the establishment of minimum lot sizes as well as changes required by HB 3661. The revised forest zone also responds to HB 3661. The County's revisions do not respond to the Commission's new rules adopted to implement HB 3661, effective March 1, 1994. The "Justification Statement" and new plan and zone maps respond to the Commission's order regarding establishment of appropriate minimum lot sizes. The "Justification Statement" is Attachment "A" to this report.

What Goal 3 Requires to Establish Minimum Lot Sizes

In evaluating the Yamhill County submittal, it is necessary to summarize the requirements of Goal 3 and its rule. Additionally, it is important to note that while Yamhill County has been responding to the Commission's Periodic Review Order, the Goal 3 standard for the establishment of minimum lot sizes has been amended. Although the basic standard that a minimum lot size "be appropriate to maintain the existing commercial agricultural enterprise within the area..." remains the same, it is now applied only to establish a minimum lot size less than 80-acres.

Note: All references to the "Agricultural Lands" rule, OAR 660, Division 33, in this report, are to those rules effective March 1, 1994. There is no substantive difference between the prior rule and the current one. The Goal 3 minimum lot size standard is the same in both rules. However, in the present rule, the application of the Goal 3 minimum lot size standard was simply limited to the establishment of a new minimum less than 80 acres pursuant to ORS 215.780.

ORS 215.780, (Section 7, Chapter 792, Oregon Laws 1993 (HB 3661)) requires all counties to apply at least an 80-acre minimum lot size to all land zoned as forestland or for exclusive farm use that is not designated rangeland, except that a smaller minimum may be adopted by the county, subject to a review and approval by the commission. Smaller minimums must "meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230."

Statewide Planning Goal 3 requires that a minimum lot or parcel size less than 80 acres "be appropriate to maintain the existing commercial agricultural enterprise within the area and meet the requirements of ORS 215.243." The Goal 3 "standard is intended

to prevent division of farmland into parcels that are too small to contribute to commercial agriculture in an area."
(OAR 660-33-100(2)).

The local "commercial agricultural enterprise" consists of farm operations that (1) contribute in a substantial way to the area's existing agricultural economy; and (2) help maintain agricultural processors and established farm markets (OAR 660-33-020(2)). The standard does not require "that every new parcel created be as large as existing farms or ranches in an area." Rather, smaller parcels than existing farms or ranches in an area may be created. "However, the minimum parcel size shall be large enough to keep commercial farms successful and not contribute to their decline."
(OAR 660-33-100(2)).

The choice of a minimum lot size less than 80-acres must be based on the types and sizes of existing commercial farms in the county. Commercial farm operations may be identified by analyzing the size, principal crops and other characteristics of existing farms in the area, including information on the type and value of products raised and sold, yields, contribution to market and farming and marketing practices (660-33-100(5)).

However, it is not acceptable to identify only the smallest commercial farms in an area of both large and small commercial farms and set the minimum lot size at the smallest size. Farm activities on larger holdings are part of the existing commercial agricultural enterprise and also must be maintained under Goal 3. Commercial agriculture is not "maintained" by allowing "larger" farm parcels in an area to be reduced to the size of the smallest commercial farms (OAR 660-33-100(6)).

To determine a minimum lot size less than 80-acres that complies with Goal 3, a county shall complete the following steps:

1. Identify different agricultural areas within the county, if any;
2. Determine the nature of the commercial agricultural enterprise in the county, or within areas of the county;
3. Identify the type(s) and sizes of farms that make up the existing commercial agricultural enterprise in the county or subcounty area; and
4. Determine the minimum size for new parcels that will maintain this commercial agricultural enterprise.

(OAR 660-33-100(3))

Requirement 1:

1. Adopt 80, 40 and 20 acre minimum lot size plan designations and zones for the specific agricultural subareas of Yamhill County generally set forth on Map Exhibit "B." The boundaries for these proposed minimums are not intended to be property specific. Rather, it is for Yamhill County to refine and adjust these boundaries based on public involvement and further analysis by their staff. Adjustments may be based on a more detailed analysis of each area's commercial farm units, ownerships, soils, crop types and topography.

Yamhill County Response to Requirement 1:

In response to this requirement, Yamhill County has revised its plan and zone maps. The county's "Justification Statement" (attached) explains how these minimums, as applied to specific agricultural areas of the county, comply with Goals 3 and 4. Yamhill County has conducted a review of the Commission's Map Exhibit "B", adjusted the boundaries between areas with different minimums. The county also adopted the Commission's analysis contained in Remand Order 91-RA-809 in support of the Exhibit "B" map as its own for the purpose of demonstrating compliance with the Goals 3 and 4 minimum lot size standards. (The Commission's Remand analysis is Attachment "B" of this report).

In addition, Yamhill County's "Justification Statement" (p. 4) states:

"There are a very small number of parcels that are eligible for partitioning in these [20/40-acre] areas. Identification of these enclaves of relatively small parcels is, in fact, documentation of the 'forest and agricultural practices typically occurring in the area.' These are not quasi-residential zones; the opportunity to continue forest and farm uses will remain as though in a larger minimum lot size zone. Since the land use pattern of these areas has already been established, conservation of the other values associated with forest lands will not be undermined."

The Commission's Remand Order and Map Exhibit "B" were supported by information depicted on a number of individual site specific assessor and ownership maps for the different agricultural subareas of the county. These are also considered part of the Commission's analysis relied on by the county. Additional detailed assessor and ownership maps were prepared by the county for any areas where the county changed the minimum lot size designations on the Commission's Exhibit "B" Map. New detailed tax lot and ownership maps were also prepared for the Western Coast Range Foothills subarea. The compliance of this subarea with Goals 3 and 4 will be discussed under Requirement 3 of this report.

Department Analysis:

The department has reviewed all of the county's new plan and zone maps for consistency with the Commission's Map Exhibit "B". Except for the Western Coast Range Foothills subarea, which is covered by a later section of this report, the county's new plan and zone maps are consistent with the Commission's Map Exhibit "B" and its reasons in support of this map as explained in Remand Order 91-RA-809. The county's new plan and zone maps are a "good faith" specific application of the minimum lot sizes consistent with the less specific map proposed by the Commission. The few changes to the Commission's proposed minimum lot size designations are minor refinements supported by descriptions of the county's minimum lot size areas as described in the Commission's Remand Order and by the tax lot and ownership maps recently submitted by the county or already in the record.

Objection by 1000 Friends:

1000 Friends of Oregon objects, on several grounds, to Yamhill County's response to this requirement. There are four parts to the objection.

1. The county's analysis and justification of it's 20-acre and 40-acre minimum lot sizes have not addressed compliance with ORS 215.780(2) which requires that a chosen minimum "meet the requirements of ORS 215.243 and 527.630..." Therefore, the Commission must determine whether the proposed 20-acre and 40-acre minimums meet these standards;
2. The County has not justified the changes to the Commission's Map Exhibit "B" especially the expansion of any areas designated for 20 and 40-acre minimums;
3. The County has not justified approving different minimums within the single agricultural "areas" set forth on Commission's Map Exhibit "A" which violates Goal 3; and
4. The 20-acre minimum does not meet state law requirements. Specifically, 1000 Friends asserts that;

"...there is no area of Yamhill County's exclusive farm use zone where 20-acre parcels are appropriate to maintain the area's existing commercial agricultural economy or where such parcels would maintain agricultural land in large blocks as required by HB 3661."

Department's Response to Objection:

The four objections to this requirement are not sustained.

Regarding the third and fourth objections above, 1000 Friends' makes the same points that it previously made to the Commission and to the Court of Appeals in Oregonians in Action v. LCDC, 121 Or App 497, rev den 318 Or 170 (1993). The Commission's brief to the Court of Appeals responded to these arguments and is incorporated into this report by this reference. The Court of Appeals rejected the assignments of error made by 1000 Friends. Specifically, the Court stated:

"1000 Friends' first two assignments take issue with parts of LCDC's order that allow for 20-acre and 40-acre minimum lot sizes in some of the agricultural 'subareas' of the county. Neither assignment demonstrates error." 121 Or App 497, 505 (1993).

Regarding the second objection, the changes to the Commission's Map Exhibit "B" are consistent with the Commission's analysis and support for Map "B" included in the Remand Order and by the additional detailed tax lot and ownership maps submitted by Yamhill County. The areas subject to the 20 and 40-acre designations are already divided such that there are very few dividable parcels larger than 40-acres (in the 20-acre areas) or 80-acres (in the 40-acre areas). Out of all the acres and parcels included in the 20-acre and 40-acre designations on Map "B", only about 21 new parcels can be created. Only about 3 new parcels are possible in the expanded areas added by Yamhill County to the Map "B" areas. The Goal 3 minimum lot size standard is "intended to prevent division of farmland into parcels that are too small to contribute to commercial agriculture in an area." OAR 660-33-100(2). This standard is met where very few new parcels can be created in the areas designated for 20 and 40-acre minimums.

Regarding the first objection, the 20-acre and 40-acre minimums are consistent with ORS 215.243 and 527.630 because of the Commission's determination that these minimums comply with the Goal 3 and 4 minimum lot size standards as explained below.

Goal 3 requires "agricultural land" to be "preserved and maintained for farm use..." consistent with "the state's agricultural land use policy expressed in ORS 215.243." ORS 215.243 (Legislative Agricultural Land Use Policy) requires that agricultural land be preserved in "large blocks" (see Attachment C). However, this policy only provides broad guidance to land divisions and was not intended to prohibit all divisions of agricultural land. (See Meeker v. Clatsop County, 287 Or 665 (1979); Clyde Holliday Family Ranches, Inc. v. Grant County, 10 Or LUBA 199, 207 (1984) and Stephens v. Josephine County, 11 Or LUBA 154, 160-162, (1984)). Goal 3 also sets a specific standard for the establishment of a minimum lot size less than 80 acres. The Goal 3 minimum lot size standard was first adopted as part of the original Goal 3 in 1974 and was intended to implement the policy set forth in ORS 215.243.

Yamhill County has approximately 265,000 acres zoned for Exclusive Farm and Agriculture/Forestry use in large contiguous areas of the county. Clearly, "large blocks" of agricultural land are being preserved in Yamhill County consistent with ORS 215.243. Countywide, only about 35 new parcels can be created by partition in the areas designated with 20 and 40-acre minimums. ORS 215.243 is met by application of the 20-acre and 40-acre zones as designated by Yamhill County.

ORS 527.630 notes the vital contribution forests make to Oregon and declares a statewide policy regarding forests that is the basis for the policy set forth in Goal 4 and its administrative rule OAR 660, Division 6 (see Attachment "D"). Specifically, OAR 660-06-026(1)(b) sets a review standard for the establishment of minimum lot sizes less than 80 acres in forest or mixed agriculture/forestry zones that reiterates the policy language in ORS 527.630. ORS 527.630 does not add any substantive policy, standard or criteria beyond what Goal 4 and its rule already require to justify the establishment of minimum lot sizes less than 80 acres.

Objection by Laurel Macdonald:

Laurel Macdonald objects to the application of the AF-40 acre zone to three 20 acre parcels owned by her father on Parrett Mountain. She provided information regarding the small size, number of dwellings and use of surrounding parcels within a one-mile area around the subject parcels. She suggests that the area is more appropriate for the AF-20 zone than the 40 acre minimum proposed by the Commission's Map "B".

Department Response:

The objection is moot as the subject parcels were designated AF-20 by Yamhill County apparently for the reasons presented by Laurel Macdonald. The change to the Commission's Map Exhibit "B" is justified for the reasons set forth in the Department's analysis to Requirement 1 above.

Requirement 2:

2. Revise its exclusive farm use (EFU) zones consistent with the section of this report entitled "Farm Dwellings on Existing Parcels: "Go Below Provision." Under the Type Two Review, the Commission is willing to consider an additional provision that allows for a mix of crop types to be counted toward satisfying the acreage requirements of this review standard. The acreage requirement must be the largest of the crop types chosen.

Yamhill County Response to Requirement 2:

Yamhill County has revised its exclusive farm use zones to include the provisions required by the Commission's Remand Order regarding farm dwellings. Additionally, Yamhill County adopted

amendments to bring its ordinances into compliance with the provisions of HB 3661 which became effective November 4, 1993.

Department Analysis:

Compliance of the farm dwelling provisions with the Commission's Remand Order is moot in light of the Commission's new goal and rule amendments effective March 1, 1994. Yamhill County recognizes that it must amend its zoning ordinance to comply with these new provisions. Compliance with the requirements of HB 3661 are not subject to periodic review. Compliance with HB 3661 is required by ORS 197.646.

*

Comment:

As it did in the Deschutes County Periodic Review, 1000 Friends agrees that this requirement is moot and that the Commission should not review Yamhill County's submittal for compliance with goal and rule provisions that are no longer in effect.

Requirement 3:

3. Adopt an interim mixed agriculture/forest plan designation and zone which includes the following:

- (a) Plan policies which require the county to review this area under Goal 4 pursuant to OAR 660, Division 6. The review and application of Goal 4 may result in (1) some of this area being planned and zoned consistent with Goal 4; (2) all or some of this area being planned and zoned for mixed agriculture and forest uses consistent with OAR 660-06-057; and (3) some of this area being planned and zoned for exclusive farm use (EFU) consistent with Goal 3;
- (b) Application of an EFU zone pursuant to ORS Chapter 215 and OAR 660, Division 5 which includes a case-by-case review of land divisions for farm, forest and nonfarm uses as follows:
 - (i) Farm Use - 80 acres or appropriate for the continuation of the existing commercial agricultural enterprise in the area pursuant to OAR 660-05-015;
 - (ii) Forest Use - 80 acres or consistent with OAR 660-06-026(2); and
 - (iii) Nonfarm Uses - Consistent with ORS 215.263(3);

Yamhill County Response to Requirement No. 3:

This task required the county to apply Goals 3 and 4 to the Coast Range Foothills and decide whether the subarea should be planned and zoned under one or both of these goals. The task also

required the interim application of an EFU zone and the case-by-case application of the appropriate goal's minimum lot size standard.

Yamhill County did not adopt "interim" policies to review the Coast Range Foothills under Goals 3 and 4, but rather, completed the review and replanned and zoned this area to comply with Goals 3 and 4. The area has been rezoned to either Forestry-80, Exclusive Farm-80/40/20 or Agriculture/Forestry-80/40/20. The Forestry zone is intended to comply with Goal 4, the Exclusive Farm zone is intended to comply with Goal 3 and the Agriculture/Forestry zone is intended to comply with both Goals 3 and 4 as provided for under OAR 660-06-050 to 057. The mixed Agriculture/Forestry zone is applied to areas with a mix of farm and forest activities where it is not reasonable to separate these areas into different zones.

The minimum lot sizes applied to this area rely, in part, on the Goal 3 analysis adopted by the Commission in Remand Order 91-RA-809. The county asserts that the descriptions and characteristics of the areas with 20-acre and 40-acre minimums in the Commission's Remand Order are also applicable to the areas in the Coast Range Foothills to which these minimums have been applied. Detailed tax lot, ownership and tax deferral maps have been prepared for these areas.

For Goal 4, OAR 660-06-055 requires application of 660-06-026 which allows minimums less than 80 acres that ensure:

- "(A) The opportunity for economically efficient forest operations typically occurring in the area, and
- (B) The opportunity for the continuous growing and harvesting of forest tree species, and
- (C) The conservation of other values found on forest lands as described in Goal 4; and
- (D) The parcels meet the requirements of ORS 527.630."

The county's "Justification Statement (p. 4) states:

"...these enclaves of relatively small parcels is, in fact, documentation of the 'forest and agriculture practices typically occurring in the area.' These are not quasi-residential zones; the opportunity to continue forest and farm uses will remain as though in a larger minimum lot size zone. Since the land use pattern of these areas has already been established, conservation of the other values associated with forest lands will not be undermined."

Department Analysis:

Yamhill County has applied Goals 3 and 4 to the Western Coast Range Foothills subarea. The detailed maps submitted by the

county demonstrate that "each area rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor Goal 4 can be applied alone." (OAR 660-06-057). The county maps show that these areas are primarily parcels with a mix of farm and forest activities with significant acreage on forest tax deferral. Also included are some intermixed parcels on farm tax deferral. Based upon our review of the detailed maps submitted by the county, it is simply not reasonable to distinguish these areas by the application of separate farm and forest zones.

"Regarding the standards in OAR 660-06-026, the detailed tax lot, ownership and tax deferral maps prepared for the AF zoned areas provide the documentation regarding typical forest operations in the area. The overwhelming majority of the tracts in the AF zone are already less than 40 acres and receive forest tax deferral. To receive such deferral, the assessor must determine that the land is "being held or used for the predominant purpose of growing and harvesting trees of marketable species," and satisfies the minimum stocking or acreage requirements specified by the Forest Practices Act.

Thus, the parcel and tax deferral data in the record clearly demonstrate that the selected minimum lot size reflects the existing parcelization pattern, which allows "economically efficient forest operations" (OAR 660-06-026(1)(b)(A)) and the "continuous growing and harvesting of forest tree species" (OAR 660-06-026(1)(b)(B)). The selected minimums reflect and preserve the current parcel pattern, and the current level and scale of forest use occurring on the existing parcels in these areas.

The 20 and 40 acre minimum lot sizes are only applied to areas where the existing parcels are already these sizes. Only 16, new scattered parcels throughout the county may be created in all of the AF zoned areas. These new parcels would be surrounded by existing smaller parcels with similar forest potential. The existing types of forest operations in these areas will be unaffected by the few new parcels that may be created. As the county's "Justification Statement" concludes: "Since the land use pattern of these areas has already been established, conservation of the other values associated with forest lands will not be undermined." (OAR 660-06-026(1)(b)(C)).

OAR 660-06-026(1)(b)(D) requires that new parcels meet the requirements of Oregon's forest lands policy in ORS 527.630 (see Attachment "D" of report). ORS 527.630 notes the vital contribution forests make to Oregon and declares a statewide policy regarding forests that is the basis for the policy set forth in Goal 4 and its administrative rule OAR 660, Division 6. The standards set forth in OAR 660-06-026(1) repeats the policy language in ORS 527.630. ORS 527.630 does not add any substantive policy, standard or criteria beyond what Goal 4 and its rule already require to justify the establishment of minimum lot sizes less than 80 acres.

Based on the existing small parcel pattern and type of forest operations in the designated areas, Yamhill County has demonstrated compliance with Goal 4, OAR 660-06-026 and ORS 527.630.

The Agriculture/Forestry zone was initially acknowledged under Goals 3 and 4 and allowed both farm and forest dwellings. It has been revised to allow for the uses authorized by both Goals 3 and 4 pursuant to OAR 660-06-050. Except for the land division standards, review of this zone's provisions with respect to allowed uses and development standards with HB 3661 and the Commission's new rules effective March 1, 1994 are not subject to periodic review. This issue is moot, in this proceeding, in light of the Commission's new goal and rule provisions and ORS 197.646.

Objection:

1000 Friends objects to the application and provisions of the Agriculture/Forestry zone. There are several parts to their objection:

1. The county has not demonstrated that it has applied the required standard for the application of a mixed Agriculture/Forest zone pursuant to OAR 660-06-057;
2. The mixed zone allows dwellings not authorized by HB 3661;
3. The standards for the review of farm dwellings do not comply with OAR 660, Division 33 for Important Farmlands;
4. The county has not demonstrated that the 20 and 40-acre minimums comply with OAR 660-06-026 and HB 3661; and
5. Provisions regarding lot-line adjustments do not comply with Goal 3, HB 3661 and 92.010(6)(b);

Department Response to Objection:

Except for the fifth objection regarding lot-line adjustments, the remaining four objections are not sustained.

The first objection is not sustained for the reasons explained under the "Department's Analysis" of Requirement 3, above.

The second objection is not sustained because ORS 197.646 requires compliance with new statutes, goals and rules to be done outside of periodic review.

The third objections are not sustained because the compliance issue regarding the approval of dwellings is moot for the reasons explained under the "Department's Analysis" of Requirement 2 above.

The fourth objection is not sustained for the reasons explained under the "Department's Analysis" and "Response to Objections" to Requirement 1 above.

The fifth objection is sustained. The County allows lot-line adjustments that do not comply with Goals 3, 4 and ORS 215.780. ORS 92.010(6(b) requires that lot-line adjustments comply with applicable provisions of the county zoning ordinance. 1000 Friends correctly points out that Section 403.11(B)(2) of the County Zoning Ordinance allows the creation of new parcels less than the specified minimum lot size in violation of Goals 3, 4, OAR 660-33-100 and 660-06-026.

Requirement 4:

- 4. Adopt plan policies and criteria to guide any proposed plan/zone changes from one minimum lot size to another consistent with Goal 3 and the county's reasons for establishing the location of the proposed minimum lot sizes developed in response to this report. Proposed plan/zone changes to include land in the interim mixed agriculture/forest designation will require the application of Goals 3 and 4.**

Yamhill County Response to Requirement 4:

Yamhill County has adopted plan policies and zone code provisions to guide any proposed plan/zone changes from one minimum lot size to another. The "Justification Statement" (p. 5) says:

"The Plan policies require that any amendment be shown to comply with Goal 3 or 4, or both, as applicable. Because the minimum lot size of all farm and forest property in the county is secured by the Comprehensive Plan, a Plan amendment will be required to change it. The new policies ensure that any amendment is appropriate to protect the resource values of the land in the county."

These plan policies have been added to the county plan (Section II(A)) "Agricultural Lands" by Exhibit "E" of Ordinance 565.

Specifically, Section 1208.03 of the County Zoning Ordinance requires that changes between Exclusive Farm, Agriculture/Forestry, or Forestry zones or changes to the minimum lot sizes of these zoning districts comply, in part, with the following:

- "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."

Department Analysis:

ORS 215.780(2) authorizes the "Commission" to approve a minimum lot size less than 80 acres in a farm or forest zone where a county demonstrates that such minimums "meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230." ORS 215.780(3) allows the "Commission" to approve these minimums through periodic review. Yamhill County has adopted minimum lot sizes less than 80 acres as applied to specific areas of the county which will be approved through this review. However, the standards for the review and approval of plan and zone changes from one minimum lot size to another lot size does not include the review and approval of the "Commission."

X Compliance with the minimum lot size standards of Goals 3 and 4 is not determined through a general analysis that a particular minimum lot size complies with these goals for any part of a county. Rather, the demonstration of compliance requires a showing of how the proposed minimum will actually comply with the goal standard for specific "areas." The analysis requires a review of existing and proposed parcel sizes and whether certain lands and soils can continue to be managed for commercial resource purposes under a specific proposed minimum lot size. This can only be determined by a review of how a particular minimum will actually work (allow new parcels and affect commercial resource uses) in a specific area. It is inconsistent with ORS 215.780 to allow additional areas to be designated with a minimum lot size less than 80 acres without the Commission's approval. To comply, Yamhill County must either:

1. Amend its plan policies and zoning code to provide for the Commission's review and approval of a plan amendment involving the change of a minimum lot size for properties in a specific area to a different minimum lot size less than 80 acres, **or**
2. Amend the plan and zoning code to include specific clear and objective criteria which will demonstrate to the Commission that by satisfying these criteria only areas that comply with

the requirements set forth in ORS 215.780(2) can be redesignated.

Objection:

1000 Friends objects to the policies and ordinance provisions for changes to the minimum lot size designations that allow a new minimum less than the statutory 80 acre minimums required by ORS 215.780.

Department Response to Objection:

This objection is sustained for the reasons explained in the "Department's Analysis" of this Requirement above.

Additional Objections from 1000 Friends of Oregon:

1000 Friends has filed some additional objections that do not directly relate to the requirements specified in Remand Order (91-RA-809):

1. Other provisions of the county's farm and forest zones do not comply with Goal 3 and HB 3661; and
2. The county's Exclusive Farm and Agriculture/Forestry zones do not comply with the regulation of High Value Farmland and appropriately limit the uses on these lands.

Department's Response to Additional Objections:

These objections are not sustained for the reasons explained under the second Requirement above. The compliance issues raised by these objections are not the subject of this periodic review because the subject Goal and rule provisions are no longer applicable or are subject to a separate review pursuant to ORS 197.646.

Conclusion for Goals 3 and 4

Yamhill County has complied with Requirement 1 and 3 set forth in Remand Order 91-RA-809. Compliance with Requirement 2 is moot because amendments to the goal and rule provisions on which it was based have been amended and are no longer applicable. Requirement 4 has not been met for the reasons explained in this report.

Requirements under Goal 5 (Order 91-RA-792)

1. Designate Walker Flat a "significant" fish and wildlife habitat, natural area and wetland resource under OAR 660-16-000(5)(c). Identify conflicting uses (OAR 660-16-005) that could negatively impact significant Goal 5 resources. If there are no conflicting uses for an identified resource, adopt policies and ordinance provisions,

as appropriate, which insure preservation of the Goal 5 resources (OAR 660-16-005(1)). If conflicting uses are identified, determine the economic, social, environmental and energy consequences of conflicting uses. In analyzing the ESEE consequences, consider both the impacts on the resource site and on the conflicting use, and consider the applicability of other statewide planning goals (OAR 660-16-005(2)). Based on this analysis, develop a program to achieve Goal 5 (OAR 660-16-010);

2. Adopt a plan policy which requires that the county complete by the next periodic review the Goal 5 rule requirements for the following significant resource sites:

<u>Site</u>	<u>Resource Type</u>	
	<u>Wetlands</u>	<u>Sidalcea</u>
- East Creek	X	
- South McGuire	X	
- Nelson's Golden Valley	X	X
- Upper Nestucca	X	
- Nestucca River	X	X
- Cedar Creek	X	
- Neverstill	X	
- Meadow Lake	X	X
- Tillamook Burn 1		X
- Tillamook Burn 2		X

3. Revise the ESEE analysis and conclusion for the Walker Creek Watershed and Potential Municipal Reservoir site to be consistent with the ESEE analysis and conclusions for all other significant Goal 5 resources including state scenic waterway; and
4. Either delete Scenic Waterway Policy (c) or revise it to make it clear that removal of the county's Scenic Waterway Overlay designation requires a plan amendment and a revised ESEE consequences analysis under Goal 5.

Response to Goal 5 Requirements:

Yamhill County amended its plan to include a Goal 5 analysis of Walker Flat (Ord. 566, Exhibit C). The county's analysis includes a discussion of the requirements of the LCDC Remand Order and of Goal 5 (pp. 1-2). The analysis also discusses the relationship of Goal 5 to the FPA and to management plans for federal lands (pp. 3-4).

The county's discussion of fish and wildlife habitat values at Walker Flat includes essentially the same findings previously reviewed and rejected by LCDC and the Court of Appeals. However, at the end of this discussion, the county concluded that Walker Flat is a significant fish and wildlife habitat only because the

conclusion was imposed on the county by LCDC's Remand Order (p. 6):

".....

Much of the evidence in the record is focused on values associated with the diverse wetland at Walker Flat. Given the context of the significant acreage of Yamhill County included within sensitive Winter Range, and the extensive number of stream draining forested uplands, the evidence does not lead the Board of Commissioners to a conclusion that Walker Flat habitat values are distinct from other forested Coast Range areas.

However, in accordance with requirements imposed by LCDC Remand Order 91-RA-792, the Board of Commissioner's hereby designates Walker Flat as a 'significant' fish and wildlife habitat."

The county's discussion of natural area values at Walker Flat include essentially the same findings previously reviewed and rejected by LCDC and the Court of Appeals. However, at the end of their discussion the county concluded that Walker Flat is a significant natural area only because the conclusion was imposed on the county by LCDC's Remand Order (p. 8):

".....

In summary, the County has received testimony indicating that three rare plants -- Sidalcea nelsoniana, Iris tenax var. gormanii and Poa laxiflora -- should serve as a basis for a decision to identify Walker Flat as a significant natural area. Based upon the reasoning and evidence noted above, the County finds that the Iris is not an independent biological entity and the Poa is not known to occur at Walker Flat. With regard to Sidalcea nelsoniana, the County finds that there is potential protection on state and federal lands, the presence of healthy populations of the plant in the Willamette Valley and documented evidence of transplant success and a high rate of survivability. The above evidence did not lead the Board of Commissioners to a conclusion that Walker Flat should be designated as a "significant" natural area.

However, in accordance with requirements imposed by LCDC Remand Order 91-RA-792, the Board of Commissioners hereby designates Walker Flat as a 'significant' natural area."

The county's discussion of wetland values at Walker Flat include essentially the same findings previously reviewed and rejected by LCDC and the Court of Appeals. However, at the end of their discussion the county concluded that Walker Flat is a significant wetland only because the conclusion was imposed on the county by LCDC's Remand Order (p. 11):

".....

Taken together, this information indicates that Walker Flat resource, with a total of 30 acres of jurisdictional riparian and non-riparian wetlands, currently identified within the study area. In addition, the study identifies two comparable wetlands within the County - Neverstill and Meadow Lake - and two such resources in adjoining counties 0 Blue Lake and Warnicke Creek - which are larger in area. Based upon this analysis and the author's expertise, the report concludes that the Walker Flat wetland is not unique with respect to (1) vegetation quality, composition and diversity, (2) wetland elevation, size and abundance, and (3) presence of Sidalcea. The evidence does not lead the Board of Commissioners to a conclusion that Walker Flat is a significant wetland.

However, in accordance with requirements imposed by LCDC Remand Order 91-RA-792, the Board of Commissioners hereby designates Walker Flat as a 'significant' wetland."

The county's analysis identifies conflicting uses and an analysis of the ESEE consequences of conflicting uses (pp. 13-18). Based on this analysis, the county revised its regulations to protect fish and wildlife habitat, natural area values and wetlands at Walker Flat. The county applied its limited use overlay zone to Walker Flat. The Walker Flat Limited Use Overlay Zone prohibits uses permitted outright and conditionally to only forestry operations and other uses governed by the Forest Practices Act.

The county revised Water Resources Plan Policy (n) to complete, by the next periodic review, the Goal 5 process for the wetlands identified by LCDC (Ord. 566, Exhibit A, p. 3).

As required, the county revised the ESEE analysis and conclusion for the Walker Creek Watershed and Potential Municipal Reservoir site so that it is consistent with the ESEE analysis and conclusion for all other significant Goal 5 resources including state scenic waterways (Ord. 566, Exhibit C, pp. 17-18).

As required, the county revised Scenic Waterway Policy (c) to state that "removal of the county's Scenic Waterway Overlay designation will require a Comprehensive Plan Amendment and a revised ESEE consequences analysis under Goal 5" (Ord 566, Exhibit A, p. 5).

Conclusion to Goal 5 Requirements:

This requirement has been met.

As required by the Commission, Yamhill County: (1) designated Walker Flat a "significant" fish and wildlife habitat, natural area and wetland resources; (2) evaluated the ESEE consequences of conflicting uses; and (3) developed a "program to achieve the

goal." The fact that their findings include the Board of Commissioners' "opinion" as to the evidence in the record does not violate Goal 5. The Attorney General's office has advised us that, although the county has adopted findings that are contrary to the Commission's previous review, they have also adopted provisions in compliance with Goal 5 and the Remand Order.

Any change in the county's determination of significance, ESEE analysis or protection program for Walker Flat will require a post acknowledgment plan amendment and compliance with Goal 5, OAR 660, Division 16 and the Court of Appeals ruling regarding this matter.

IV. OVERALL CONCLUSION

Based on Yamhill County's revised Final Periodic Review Order, and on the findings above, Yamhill County's comprehensive plan and land use regulations:

- (1) Do not comply with Goal 3 and OAR 660, Division 33 with respect to:
 - (a) Lot-line adjustments in the AF-20 zone, and
 - (b) The change of a minimum lot size to a smaller minimum less than 80 acres; and
- (2) Comply with Goal 5 and OAR 660, Division 16 for Walker Flat.

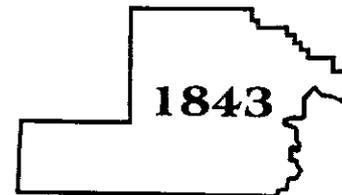
V. RECOMMENDATION

In order to comply with Goal 3, Yamhill County must:

- (1) Amend its AF zone (Section 403.11(B)(2)) to require that lot-line adjustments retain the same number of parcels larger and smaller than the specified minimum lot size; **and either:**
- (2) Amend its plan policies and zoning code to provide for the Commission's review and approval of a plan amendment involving the change of a minimum lot size for properties in a specific area to a different minimum lot size less than 80 acres, **or**
- (3) Amend the plan and zoning code to include specific clear and objective criteria which will demonstrate to the Commission that by satisfying these criteria only areas that comply with the requirements set forth in ORS 215.780(2) can be redesignated.

<pr>

Yamhill County



COURTHOUSE • FIFTH & EVANS • McMinnville, Oregon 97128-4523 • (503) 472-9371

NOTICE OF ADOPTION OF LAND USE DECISIONS BY YAMHILL COUNTY

NOTICE IS HEREBY GIVEN by the Yamhill County Board of Commissioners ("the Board") that on December 30, 1996 the Board Adopted Board Order 96-851 and Ordinance 618. Board Order 96-851 and Ordinance 618 are the county's Final Local Periodic Review Order for matters related to statewide planning goals 3 and 4. ("Periodic Review" is the process for the Oregon Department of Land Conservation and Development ("DLCD") to review the county's land use plan and regulations.)

Ordinance 618 makes certain changes to sections 403 and 1208 of the Yamhill County Zoning Ordinance, No. 310, as amended. Ordinance 618 establishes additional criteria for lot-line adjustments in agriculture/forestry districts. Ordinance 618 also provides LCDC must give final concurrence to applications to reduce the minimum lot size in exclusive farm use districts and agricultural/forestry districts. Board Order 96-851 and Ordinance 618 were adopted by the Board in order to comply with Commission's Review Order 94-REMAND-931 of LCDC.

Board Order 96-851 and Ordinance 618 may be reviewed at the Yamhill County Department of Planning and Development, 535 E. Fifth Street, McMinnville, Oregon, 97128, during regular business hours from 8 a.m. through noon and 1 p.m. through 5 p.m., Monday through Friday, excluding holidays.

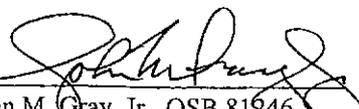
Yamhill County commenced periodic review on December 26, 1985. Because of the extended periodic review process, the county is subject to a former process which is inapplicable to most other jurisdictions. The county interprets the following rules and procedures to apply, but interested persons should consult with their own legal counsel with respect their legal rights and responsibilities in a challenge to Board Order 96-851, Ordinance 618 or any decision of LCDC or the Director of DLCD with respect to this proceeding.

This notice is given under an administrative rule of LCDC known as OAR 660-19-070, which applies to Yamhill County because of OAR 660-25-230. Any objections to Board Order 96-851 must be made to the Director of DLCD. The process for presenting objections is stated in OAR 660-19-080, which provides with limited exceptions that objections may be made only by those persons who participated orally or in writing in the local government proceedings leading to the adoption of the final local periodic review order. An objection filed against the county's final local periodic review order shall:

- a. Be in writing.
- b. Be mailed or otherwise submitted to the Director of DLCD and the Yamhill County Board of Commissioners not later than 30 days from DLCD's receipt of a complete final order.
- c. Be limited to those issued raised by the objector before the local government. (Certain exceptions to this rule may apply.)
- d. Specify the alleged grounds upon which the final local periodic review order does not meet the periodic review factors.

YOU HAVE RECEIVED THIS NOTICE BECAUSE COUNTY RECORDS INDICATE THAT YOU PARTICIPATED ORALLY OR IN WRITING IN PROCEEDINGS LEADING TO THE ADOPTION OF BOARD ORDER 96-851 AND ORDINANCE 618. IF YOU HAVE ANY QUESTIONS REGARDING YOUR LEGAL RIGHTS OR RESPONSIBILITIES, YOU SHOULD CONSULT AN ATTORNEY.

Dated December 30, 1996.


John M. Gray, Jr. OSB 81246
Yamhill County Legal Counsel

IN 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 Adoption of a Final Local Periodic)
Review Order on Statewide Planning Goals 3 & 4,)
Revising Board Orders 87-203, 91-113 and 93-910) BOARD ORDER 96-851
to Comply with LCDC Commission's Review Order)
94-REMAND-931.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on December 30, 1996, commissioners Robert Johnstone, Thomas E. E. Bunn and Dennis L. Goecks being present.

IT APPEARING TO THE BOARD AS FOLLOWS:

A. All of the findings in paragraphs "A" through "X" of Yamhill County Ordinance 618, December 30, 1996 are hereby incorporated by this reference as findings for this Board Order.

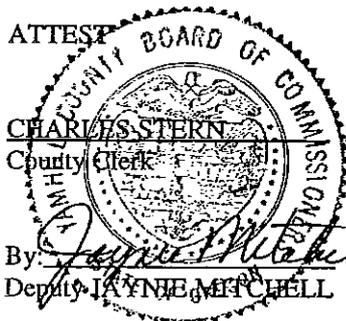
B. Board Orders 87-203, 91-113 and 93-910 constituted previous "Final Local Periodic Review Orders" for Yamhill County. This Board Order constitutes the county's Final Local Periodic Review Order of December 30, 1996 and revises previous Final Local Periodic Review Orders to the extent necessary to comply with Commission's Review Order 94-REMAND-931 of the Oregon Land Conservation and Development Commission. NOW, THEREFORE

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The county adopts this Board Order and Ordinance 618 in response to Commission's Review Order 94-REMAND-931 of the Oregon Land Conservation and Development Commission.
2. Board Orders 87-203, 91-113 and 93-910 are revised by this Board Order and Ordinance 618.
3. This Board Order and Ordinance 618 shall be submitted to the Oregon Department of Land Conservation and Development as Yamhill County's Final Local Periodic Review Order on statewide planning goals 3 and 4.

DONE at McMinnville, Oregon this 30th day of December, 1996.

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

Robert Johnstone
ROBERT JOHNSTONE, Chairman

Thomas E. E. Bunn
THOMAS E. E. BUNN, Commissioner

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Dennis L. Goecks
DENNIS L. GOECKS, Commissioner

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

96 DEC 30 PM 3:46
COUNTY CLERK

In the Matter of an Ordinance Responding to)
LCDC Review Order 94-REMAND-931,)
Amending the Yamhill County Zoning Ordin-)
ance, No. 310, as amended, and certain Plan)
Policies of the Yamhill County Comprehensive)
Plan, as amended, to Make Textual Amend-)
ments to Revise Criteria for Lot Line Adjust-)
ments in Agricultural/Forestry Zones and to)
Require Authorization from the Land Conser-)
vation and Development Commission Prior to)
Final Approval of Applications Seeking a Re-)
duction of Minimum Lot Size in EFU or AF)
Zones; Planning Docket G-5-94; Declaring)
an Emergency.)

ORDINANCE 618

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on December 30, 1996 commissioners Robert Johnstone, Thomas E. E. Bunn and Dennis L. Goecks being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Since December 26, 1985, the Department of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (LCDC) have been engaged in the periodic review of Yamhill County's comprehensive land use plan and land use regulations under former ORS 197.640 to 197.647. In the periodic review process, DLCD and LCDC are responsible for determining whether a local jurisdiction's comprehensive land use plan and land use regulations meet requirements of state statutes, administrative rules and the statewide planning goals. Yamhill County is one of two Oregon jurisdictions still undergoing review under the former process.
- B. From 1986 through 1990, the Board adopted a series of ordinances and orders to respond to various requirements of DLCD and LCDC in periodic review. By early 1991, the county was found to be in compliance with all statewide goals except for portions of goals 3, 4 and 5. In the course of the next three years, the county was determined to have complied with the entirety of Goal 5.
- C. On February 27, 1991 the Board adopted Ordinance 519 to respond to LCDC Remand Order 89-RA-556 in an effort to complete remaining periodic review requirements regarding statewide planning goals 3 and 4. Among other things, Ordinance 519 sought to justify the county's existing 20 and 40 acre minimum lot sizes in exclusive farm use zones.

96-850

D. On December 23, 1991 LCDC issued Remand Order 91-RA-809 which rejected Ordinance 519 and imposed four principal requirements on the county to satisfy periodic review as it related to goals 3 and 4. First, it required the county to adopt 80, 40 and 20 acre minimum lot size EFU zones for specific subareas of the county identified on a map prepared by DLCD staff. This map was known as "the Exhibit B map". The county was directed to hold public hearings and adopt the Exhibit B map in substantially the same form as produced by DLCD staff, allowing for adjustment of the boundaries based on public involvement and further analysis by county staff. Second, it required the county to adopt DLCD language for text amendments to the zoning ordinance for the establishment of farm dwellings on parcels smaller than the minimum lot size (the "go below" provisions). Third, it required the county to adopt an interim mixed agriculture/forest plan and zone designations on certain specified lands. The county was to review the affected land under the Goal 4 rules and to apply a case-by-case review for land divisions. Fourth, it required the county to adopt plan policies restricting future changes from one minimum lot size to another.

E. On February 19, 1992 the county petitioned the Oregon Court of Appeals to review LCDC Remand Order 91-RA-809, the case later being entitled Oregonians in Action v. LCDC, Appellate Number CA A73503.

F. On December 22, 1992 LCDC issued administrative rules on small scale resource land that incorporated certain commercial scale requirements for the establishment of farm dwelling, with the new rules to become effective August 7, 1993. On February 22, 1993 Oregonians in Action v. LCDC was argued to the Oregon Court of Appeals.

G. On July 7, 1993 the Oregon Court of Appeals issued its decision in Oregonians in Action v. LCDC, 121 Or App 497 (1993). The decision affirmed LCDC Remand Order 91-RA-809 in its entirety, rejecting the petition of Yamhill County and the cross-petition of 1000 Friends of Oregon.

H. On July 31, 1993 the Oregon legislature passed the B-engrossed version of HB 3661 which contained numerous provisions, including the limited right to establish a dwelling on certain lots of record established before January 1, 1985. HB 3661 also affected minimum lot sizes in exclusive farm use zones by establishing a new minimum lot size of 80 acres for all land zoned EFU that is not designated rangeland. Exceptions to the new statutory minimum lot size of 80 acres was allowed under two subsections of Section 7 of HB 3661, codified as ORS 215.780 as follows:

"(2) A county may adopt a lower minimum lot or parcel size than [80 acres] by demonstrating to the commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

"(3) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.636 that is smaller than [80 acres] need not comply with subsection (2) of this section."

The governor signed HB 3661 (1993 Oregon Laws Chapter 792) into law on September 7, 1993 with an effective date of November 4, 1993. Although subsection (2) was modified by the legislature in 1995, subsection (3) remains operative.

I. On August 10, 1993 the county petitioned the Oregon Supreme Court to review the decision of the Court of Appeals in Oregonians in Action v. LCDC, and on December 8, 1993 the Oregon Supreme Court issued its Order Denying Review, operating to exhaust all of the county's legal challenges to LCDC Remand Order 91-RA-809.

J. On December 29, 1995 the Board adopted Ordinance 565 and Board Order 93-910 in an attempt to comply fully with LCDC Remand Order 91-RA-809, including the adoption of the DLCD zoning map, except as otherwise required or allowed by changes in statutes or administrative rules adopted after December 23, 1991.

K. On January 26, 1994 1000 Friends filed formal periodic review objections with DLCD to Board Order 93-910 and Ordinance 565. On March 1, 1994 new LCDC administrative rules on Goal 3 went into effect.

L. On April 21, 1994 the Director of DLCD issued his "Director's Report," recommending that LCDC sustain all of Board Order 93-910 and Ordinance 565 except for two issues, the first of which was a scrivener's error relating to criteria for lot line adjustments in agricultural/forestry zones. As to the second issue, the Director recommended giving the county two alternatives for deciding applications where property is sought to be changed from an 80 acre district to a 40 or 20 acre district or from 40 to 20: Option 1 was to attempt to establish new standards for review. Option 2 was to amend the zoning ordinance and plan policies to require LCDC concurrence on those types of applications following conditional approval by the Board. This option was generally referred to as the "LCDC concurrence option."

M. On May 2, 1994 1000 Friends of Oregon issued its Exceptions to Director's Report contesting many provisions of Ordinance 565 which were sustained in the Director's Report.

N. On May 27, 1994 LCDC held a public hearing to consider Ordinance 565, Board Order 93-910, the Director's Report and 1000 Friends of Oregon's Exceptions to Director's Report. Without committing to Option 1 or Option 2 relating to changes in minimum lot sizes, the county acquiesced in the remainder of the Director's recommendations.

O. On June 20, 1994 LCDC issued Commission's Review Order 94-REMAND-931 which adopted the Director's Report finding that the county has satisfied all periodic review requirements except for the two matters specified in the Director's Report. The Order stated if the county adopted the "LCDC concurrence option," the Director was authorized to terminate the Yamhill County periodic review process which began December 26, 1985. On the other hand, if the county adopted additional standards with no concurrence requirement, the order required additional periodic review proceedings before LCDC. Because of HB 3661, Section 7, the 80 minimum lot size established by the legislature would continue to remain in effect until the 20, 40 and 80 acre zoning adopted by

Ordinance 565 and conditionally accepted by LCDC was approved in final form through periodic review.

P. On July 18, 1994, the Board held a duly noticed public hearing to determine whether to adopt Option 1 or Option 2 (the LCDC concurrence option) from Commission's Review Order 94-REMAND-931. After taking testimony, the final hearing was continued to August 10, 1994

Q. On August 10, 1994 the Board continue the public hearing on county action in response to Commission's Review Order 94-REMAND-931. Commissioners Goecks, Owens and Lopuszynski were all in agreement that Option 2 (the LCDC concurrence option) was the appropriate response to the Review Order under circumstances because of the need to conclude the periodic review process which began December 26, 1985. Disagreement arose with respect to language in the enabling ordinance. A motion to approve the LCDC concurrence option passed 2-1, Commissioner Goecks dissenting. Staff was directed to draft an ordinance for adoption on August 31, 1994.

R. On August 19, 1994 1000 Friends of Oregon filed a petition for judicial review asking the Oregon Court of Appeals to overturn Commission's Review Order 94-REMAND-931. Thereafter, Yamhill County intervened on the side of DLCD. The case was entitled 1000 Friends of Oregon v. LCDC and Yamhill County.

S. Between August 31 and September 28, 1994, the Board considered whether to go forward with the ordinance implementing the county's response to Commission's Review Order 94-REMAND-931, including adoption of the LCDC concurrence option. On September 28, 1994 the Board tabled the proposed ordinance while the appellate courts considered 1000 Friends of Oregon's challenge to Commission's Review Order 94-REMAND-931.

T. On July 25, 1995 1000 Friends of Oregon v. LCDC and Yamhill County was argued to the Oregon Court of Appeals. On March 6, 1996 the Oregon Court of Appeals affirmed Commission's Review Order 94-REMAND-931, holding that LCDC was entitled to judicial deference in interpreting its own rule, and that it properly followed the "maintenance" approach it used in approving the 20, 40 and 80 acre zoning. 1000 Friends of Oregon v. LCDC and Yamhill County, 126 Or App 485 (1996).

U. On April 10, 1996 1000 Friends of Oregon filed a petition with Oregon Supreme Court seeking review of the decision of Court of Appeals in 1000 Friends of Oregon v. LCDC and Yamhill County. On May 1, 1996 the county filed a response arguing against further court review. On May 7, 1996 the Oregon Supreme Court denied review, effectively ending the final legal challenges to Commission's Review Order 94-REMAND-931.

V. On October 17, 1996 the county gave notice of its intent to hold a public hearing to consider adoption of the amendments required by Commission's Review Order 94-REMAND-931, including the LCDC concurrence option. The hearing was set for December 11, 1996.

W. On December 11, 1996 the Board held a duly noticed public hearing in Room 32 of the courthouse to consider adoption of the zoning ordinance and plan policy revisions required by Commission's Review Order 94-REMAND-931, including the LCDC concurrence option. Thereafter, a motion passed unanimously to adopt the revisions, including the LCDC concurrence option. Staff was directed to prepare the implementing ordinance.

X. This ordinance implements the Board's tentative decision of December 11, 1996. In adopting the LCDC concurrence option, the Board recognizes that final decision-making authority for those land use applications seeking a reduction of minimum lot size in EFU and AF zones has been delegated to the state. While the Board finds that other options are preferable, the Board recognizes that both LCDC and Oregon appellate courts have rejected those options. In adopting this ordinance, the Board finds that it has no other practical alternative in order to conclude the periodic review process which began December 26, 1985 and, as importantly, to enable the 20, 40 and 80 acre zoning authorized by Ordinance 565 and thereafter conditionally approved by LCDC to become effective.
NOW, THEREFORE

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Additional Criteria for Lot-line Adjustments.

Subsection 403.11(B)(2)(c) of the Yamhill County Zoning Ordinance, as amended, is hereby amended to include the language underlined in the attached Exhibit "A" which is by this reference hereby made a part of this ordinance.

Section 2. LCDC Concurrence for Certain Zone Changes.

Subsection 1208.03 of the Yamhill County Zoning Ordinance, as amended, is hereby amended to add a new subsection (F). The language for new subsection (F) is underlined in the attached Exhibit "B" which is by this reference hereby made a part of this ordinance.

Section 3. Amendment of Revised Goals and Policies of Comprehensive Plan.

Subsection "A" of Section II of the Revised Goals and Policies of the Yamhill County Comprehensive Plan is amended to add a new policy (k). The language for new policy (k) is underlined in the attached Exhibit "C" which is by this reference hereby made a part of this ordinance.

Section 4. Justification Statement.

As justification for this ordinance, the Board hereby adopts, by reference, the findings and conclusions set forth in an order of the Land Conservation and Development Commission entitled "Commission's Review Order 94-REMAND-931."

Section 5. Severability Clause.

This ordinance is severable. If any section or subsection contained in this ordinance or any of its exhibits is found to be invalid or unconstitutional by a court of last resort, that section of subsection shall be severed from this ordinance and the remainder of this ordinance shall remain valid.

Section 6. Effective Date and Declaration of Emergency.

This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective upon passage.

DONE at McMinnville, Oregon on December 30, 1996.



YAMHILL COUNTY BOARD OF COMMISSIONERS

Robert Johnstone
ROBERT JOHNSTONE, Chairman

By: Jayne Mitchell
Deputy JAYNIE MITCHELL

Thomas E. E. Bunn
THOMAS E. E. BUNN, Commissioner

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Dennis L. Goecks
DENNIS L. GOECKS, Commissioner

**EXHIBIT "A" TO ORDINANCE 618
(Additional Criteria for Lot-line Adjustments)**

403.11 Standards and Limitations.

In the Agriculture/Forestry District, the following standards and limitations shall apply:

...

B. Parcel Size and Dimension.

1. a. **Newly-Created Parcels.** Any new farm/forest parcel proposed to be created shall be a minimum of 20 acres in the AF-20 district, 40 acres in the AF-40 district and 80 acres in the AF-80 district.
- b. Any new nonfarm/nonforest parcel created to support a dwelling shall comply with Subsection 403.03(F).
- c. Any new nonfarm/nonforest parcel proposed to be created for nonfarm/nonforest uses other than dwellings shall be no larger than the minimum size necessary for its use.
2. **Lot-line adjustments.**
 - a. Any parcel principally devoted to farm use subject to alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment.
 - b. Any parcel principally devoted to forest use subject to alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.
 - c. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size.

**EXHIBIT "B" TO ORDINANCE 618
(LCDC Concurrence for Certain Zone Changes)**

**1208.03 Review Criteria for Amendments To or Within Exclusive Farm Use
and Agriculture/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.

**EXHIBIT "C" TO ORDINANCE 618
(Amendment of Revised Goals and Policies of Comprehensive Plan)**

FROM THE YAMHILL COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES

SECTION II

THE LAND AND WATER

A. AGRICULTURAL LANDS

...

GOAL STATEMENT

1. To conserve Yamhill County's farmlands for the production of crops and livestock and to ensure that the conversion of farmland to urban use where necessary and appropriate occurs in an orderly and economical manner. (104) R

POLICIES

- a. Yamhill County will provide for the preservation of farmlands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various public financial incentives. (105)
- b. Yamhill County shall provide for the protection of farmland in large blocks through minimum lot sizes of 20, 40, and 80 acres, as appropriate, on the Comprehensive Plan and official zoning maps. Any proposal to reduce the minimum lot size on a farm or farm/forest parcel shall be shown to be appropriate to maintain the existing commercial agricultural enterprise in the area. (Ord. 565)
- c. Yamhill County recognizes that certain 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. (Ord. 565)

- d. Yamhill County will provide for the conservation of farmlands through various plan implementation measures and the review of any public or private land use determinations subject to county jurisdiction, including urban development activity and the location and construction of highways and utility transmission lines which disturb the soil cover and natural drainage pattern, and increase storm runoff, erosion and sedimentation. (106)
- e. Yamhill County will recognize and support watershed storage projects in the Yamhill River basin for their irrigation and flood control benefits. (106) R
- f. Yamhill County will continue to support State special assessment incentives relative to farmlands which are subject to ORS statutes or other farm management programs in order to preserve such lands for farm use and production. (106) R
- g. Yamhill County will not permit subdivision on lands designated by the county comprehensive plan as Exclusive Farm Use or Agriculture/Forestry Large Holding in order to preserve such lands for forest and farm uses and production. (Ord. 233, 565)
- h. No proposed rural area development shall substantially impair or conflict with the use of farm or forest land, or be justified solely or even primarily on the argument that the land is unsuitable for farming or forestry or, due to ownership, is not currently part of an economic farming or forestry enterprise.
- i. In order to conserve energy in the production and delivery of food and other agricultural products, Yamhill County will encourage the creation of farmer's markets and will encourage the use of less petroleum-intensive farming methods while providing related technical assistance.
- j. 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 the areas designated Exclusive Farm Use or Agriculture/Forestry Large Holding on the Comprehensive Plan map, or from a farm, forest, or agriculture/forestry designation to a different resource classification. (Ord 565)
- k. Any Comprehensive Plan or zone map amendment that would reduce the minimum lot size on property within an Exclusive Farm Use or Agriculture/Forestry designation 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 zoning ordinance shall provide a process for conditional approval by Yamhill County, concurrence by the Land Conservation and Development Commission and final approval by Yamhill County in applications subject to this subsection (Ord 618)

MAILING LIST

**PERIODIC REVIEW NOTICE FOR
BOARD ORDER 96-851 AND ORDINANCE 618,
REVISING BOARD ORDER 93-910 AND ORDINANCE 565
(Goals 3 & 4)**

F. Blair Batson
1000 Friends of Oregon
534 SW Third Ave, Suite 300
Portland, OR 97204-2597

Mark Huff &
Jill Zarnowitz
P.O. Box 577
Yamhill, OR 97148

David Hentz
460 Russ Court
McMinnville, OR 97128

Marc Dochez
P O Box 27
Dundee, Oregon 97115

Emily and Peter Gladhart
P O Box 160
Lafayette, OR 97127

Paul Hart
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Newberg, OR 97132

Tom Kreutner
15225 North Valley Road
Newberg, OR 97132

Gary Allison
23701 Wallace Road NW
Salem, Oregon 97304

Arthur Weber
P O Box 148
Dundee, Oregon 97115

Joan Davenport
6855 Breyman Orchards
Dayton, Oregon 97114

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Amity, OR 97101

David Adelsheim
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Richard Trudell
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Mark Huff &
Jill Zarnowitz
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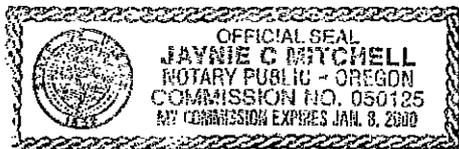
Richard Benner, Director
Department of Land Conservation and Development
1175 Court Street NE
Salem, Oregon 97310-0590

STATE OF OREGON)
) ss
County of Yamhill)

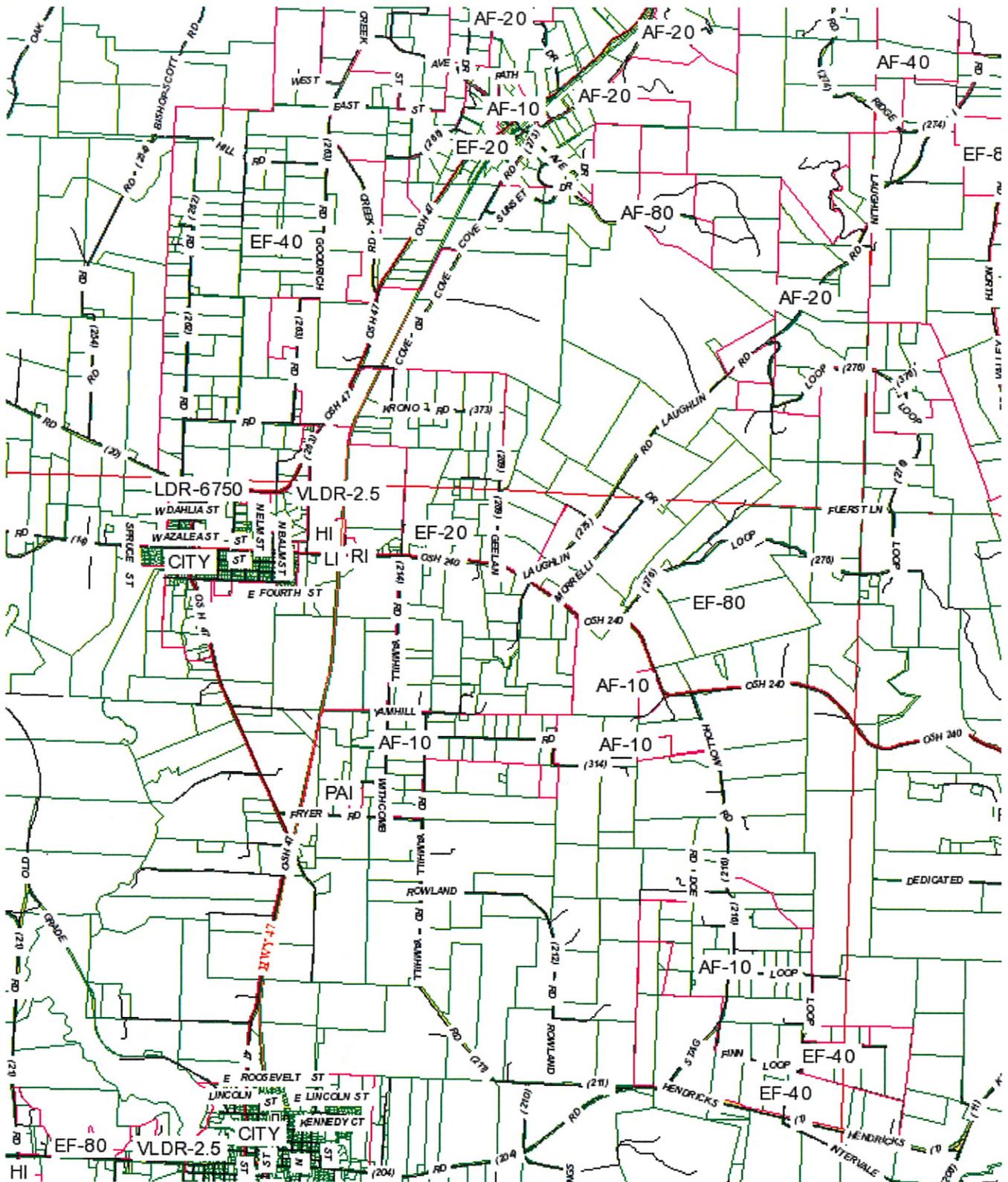
I, Carol Ann White, on the 31st day of December, 1996 sent by regular first class mail the attached Notice of Land Use Decisions regarding Board Order 96-851 and Ordinance 618 to the persons listed on pages 1 and 2 of this mailing list.

Carol Ann White

SUBSCRIBED AND SWORN to before me this 31 day of December, 1996.



Jayne C. Mitchell
Notary Public for Oregon
My Commission expires: 1-8-2000



Easting: 7506736 ft Northing: 636104 ft Lon: 123° 12' 25" W Lat: 45° 22' 54" N