

FILED

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

95-794

FOR THE COUNTY OF YAMHILL

95 DEC 15 PM 4:50

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

CHARLES STERN  
COUNTY CLERK

In the Matter of an Ordinance Amending the )  
 Yamhill County Comprehensive Plan (1974) to )  
 Change the Designation from Agriculture/ )  
 Forestry Large Holding to Very Low Density )  
 Residential, Amending the Official Zoning Map )  
 from Agriculture/Forestry (AF-20) to Very Low )  
 Density Residential (VLDR-5), and Taking an )  
 Exception from Statewide Planning Goals 3 & 4, )  
 on Approximately 60 Acres, Tax Lots 2315- )  
 5800, 2315-5801 and 2315-5804; Applicant )  
 Robert D. Park, Planning Docket PAZ-04-95; )  
 and Declaring an Emergency. )

ORDINANCE 600

DEPUTY

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in special session on December 13, 1995, Commissioners Dennis L. Goecks and Robert Johnstone being present, and Commissioner Thomas E.E. Bunn being excused.

WHEREAS, on May 15, 1995, the Department of Planning and Development received an application from Robert D. Park ("applicant"), Planning Docket PAZ-4-95, to change the comprehensive plan designation from Agricultural/Forestry Large Holding to Very Low Density Residential, to amend the Official Zoning Map from Agriculture/Forestry (AF-20) to Very Low Density Residential (VLDR-5), and to take exception from Statewide Planning Goals 3 and 4 on an approximately 60 acre parcel; and

WHEREAS, on June 26, 1995, the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted to deny the zone change and to recommend denial of the comprehensive plan amendment and exception; and

WHEREAS, on September 27, 1995, the Board held a public hearing on the application at which testimony and evidence were received, and that following the close of the hearing and the record, the Board deliberated and by vote of 2 to 0 (Commissioner Bunn excused), tentatively approved the application for the comprehensive plan amendment, zone change and exception, and directed staff to prepare an ordinance and findings in support of approval; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A" and incorporated herein by this reference provide a justification for approval of the application, including the taking of exceptions to Statewide Land Use Planning Goals 3 and 4; and

WHEREAS, on December 13, 1995, the Board met and approved the ordinance including the findings in support of the ordinance; and

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WHEREAS, although not present at the formal Board session on December 13, 1995 due to an excused absence Commissioner Bunn has previously expressed in open session his opposition to this application for a plan amendment and zone change; and

WHEREAS, the attached Exhibit "A" demonstrates that the proposed exception and amendment to the Yamhill County Comprehensive Plan, Plan Map, and Official Zoning Map of Yamhill County are in the best interests of the citizens of Yamhill County; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS as follows:

Section 1. The Yamhill County Comprehensive Plan and Plan Map (1974) are hereby amended as specified in the attached Exhibit "B", made part of this ordinance by reference, to reflect a plan designation of Very Low Density Residential on the parcels described and shown in Exhibit "B".

Section 2. In adopting the plan amendment specified in this ordinance, the county hereby takes an exception from Statewide Planning Goals 3 and 4.

Section 3. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B" to reflect a zoning designation of "Very Low Density Residential" (VLDR-5).

Section 4. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 5. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 13th day of December, 1995.



By: Jaynie Mitchell  
Deputy JAYNIE MITCHELL

FORM APPROVED BY:  
John C. Pinkstaff  
JOHN C. PINKSTAFF  
Assistant County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Dennis L. Goecks  
Chairman DENNIS L. GOECKS

Robert Johnstone  
Commissioner ROBERT JOHNSTONE

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

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**EXHIBIT "A"**  
**ORDINANCE 600**

Tentative Decision by Board of Commissioners:

October 4, 1995

Final Decision by Board of Commissioners:

December 6, 1995

**DOCKET:** PAZ-4-95

**REQUEST:** Zone change from Agriculture/Forestry (AF-20) to Very Low Density Residential (VLDR-5); Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Very Low Density Residential; Exception to Statewide Planning Goals 3 and 4.

**APPLICANT:** Robert D. Park.

**TAX LOTS:** 2315-5800, 5801, 5804.

**PROPERTY OWNERS:** Rebecca Pennington and Deborah Jeffries.

**LOCATION:** The east side of Bald Peak Road, directly opposite Bald Peak State Park.

**REVIEW CRITERIA:** Section 1208 of the Yamhill County Zoning Ordinance, ORS 197.732, OAR 660-04

**FINDINGS:**

**A. Background Facts**

1. Lot Size: Three tax lots approximately 20 acres each in size.
2. Access: Bald Peak Road.
3. On-Site Land Use: The properties are on the top of Bald Peak, with slopes toward the northeast. The property is currently leased for agricultural use, consisting of Christmas trees and grass. There are two small forested areas. There is an agricultural building and a small shed on the property, which otherwise is vacant.
4. Surrounding Land Use and Zoning: Land to the north and east consists of 5 acre lots that are being developed with residences (VLDR-5 zoning). To the west is Bald Peak State Park (PRO zoning), and to the south the land is in agricultural and forestry use (AF-20). There is also a water tower and several antennas in the vicinity (PWS zoning).

5. Water: The area is within the LA Water Cooperative boundary. The applicant has indicated that a water line runs along Bald Peak Road and the northern property line of tax lot 5801.
6. Sewage Disposal: Individual on-site systems would be required.
7. Fire Protection: Newberg Rural Fire District.
8. Taxes: The properties are receiving a tax deferral.
9. Soils: Sheet 10 of the Soil Survey shows that the area consists of Laurelwood silt loam (LuC, LuD and LuE) with slopes of 3 to 30 percent. Agricultural capability classes are III and IV, and the soil type is considered to be high-value farmland. The forest productivity capability is 160 cubic feet per acre per year of wood fiber.
10. Previous Actions: Conditional use approval was granted in 1972 for construction of a water tower on the southeast corner of the property. A request to rezone the area to VLDR and create a planned unit development was denied in 1981. The three 20 acre tax lots were created through partitionings in 1981 and 1982. Each of the tax lots received approval for a Lot of Record dwelling in 1994.

**B. Oregon Administrative Rule Provisions and Analysis.**

1. The properties are in the AF-20 district, which is acknowledged under both Goals 3 and
4. Statewide Planning Goal 3, Agricultural Lands, is:

*"To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700."*

Statewide Planning Goal 4, Forest Lands, is:

*"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."*

*Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."*

1.1 Goal 3. Goal 3 defines agricultural land as that with an agricultural Capability Class I through IV, as well as other lands suitable for farm use or necessary to permit farm practices on adjacent lands. All of the subject property is regarded as agricultural land (and "resource land") by virtue of its Class III and IV soils (see Finding A.9).

Under Oregon Administrative Rule, OAR 660-04-010, an exception to Goal 3 "Agricultural Lands" is required if resource land is to be Plan-designated and zone-designated other than exclusive farm use or for any use not permitted in an EFU zone under ORS Chapter 215. This application is to change the comprehensive plan from Agriculture/ Forestry Large Holding to Very Low Density Residential, and the zoning designation from Agriculture/Forestry (AF-20) to Very Low Density Residential (VLDR-5). Therefore, approval of the requested Plan designation and zone designation must be justified through the exceptions process.

1.2 Goal 4. The forest productivity capability is 160 cubic feet per acre per year of wood fiber (See Finding A.). Under OAR 660-04-010 an exception to Goal 4 "Forest Lands" is required.

2. ORS 197.732 indicates that an exception to a goal may be taken when the land subject to the exception is physically developed to an extent that it is no longer available for uses allowed by the applicable goals, when the land is irrevocably committed to uses not allowed by the applicable goals, or if reasons justify why the applicable goals should not apply. The applicant has chosen to justify a "committed" exception.

3. "Reasons Exception" under OAR 660-04-020.

This request is primarily based upon a Reasons Exception to Goals 3 and 4 as follows.

3.1 OAR 660-05-020(2)(a). The Board finds that reasons justify why the state land use policy embodied in the applicable goals should not apply. (Findings 1-9 apply to Goal 3; Findings 10, 11 apply to Goal 4).

1. The subject property is bordered on three sides by existing exception areas, thus making farming difficult. Conflicts arise from aerial spraying of herbicides and pesticides as well as from aerial harvesting of Christmas trees.

2. The farming practices on the subject property were altered by the presence of nonfarm uses on adjacent properties located to the north and east over the past 10-15 years.

3. The cost of conducting farming operations on the subject property increased due to the presence of nonfarm uses on the north and east (complaints about noise, dust, and spray). Costs were increased for Christmas tree production by not being able to spray for aphids entirely through aerial applications, and costs were further increased by not being able to utilize helicopter Christmas tree harvesting near non-farm dwellings.

4. The subject property is located immediately east of the highest elevation between the Cascade Range and Coast Range Mountains. The elevation (ranging from 1450' to 1600')

results in a shorter growing season, higher winds, more cloud cover, and fog, hail, and damaging ice storms. These climatic factors resulting from higher elevation collectively limit the types and varieties of crops grown, and they also increase the risk of growing any type of crop.

5. The subject property has a long documented history of poor crop yields and outright crop failures as evidenced by the direct testimony provided by the current and past farm operators. The following crops have failed on the subject property; prunes, black walnuts, and cattle pasture, and the following crops have been harvested but with no profit to the owners: wheat and Christmas trees.

6. The contract farmers of the subject property refused to renew contracts for Christmas tree production based on "impracticability" to farm.

7. The subject property lacks good transportation linkages with nearby farm operations that could assist in farming and also lacks good farm to market roads. The steep and narrow roads in the area make it difficult to bring farm implements "up the mountain". Harvesting of crops is limited to older and smaller equipment that can make it up the mountain without totally blocking the road.

8. The topography of the site is steep enough that the entire cultivated portion of the property qualifies for the SCS Conservation Reserve Program. This program recognizes that the land is highly erodible. The topography has been a limiting factor for the safe operation of many types of farm machinery over the years.

9. The soils on the subject property are of the same series and general characteristics as those soils located on adjacent exception areas to the north and east. At the time those exception areas were granted, a finding was made that the soils were "generally unsuitable" for commercial agriculture. The same finding must also be applied to the soils on the subject property.

**Goal: To preserve forest land for forest uses.**

10. The property is generally unsuitable for the production of timber due to high winds and resultant windthrow, ice storms, and shallow soils.

11. The property is generally unsuitable for the production of timber due to a serious conflict with Statewide Goal 5. Bald Peak State Park, located immediately to the west, is classified as a "State Viewpoint". If the subject property is converted to timber use, the view to the east and south from Bald Peak State Park would be lost. Testimony from the Oregon Parks and Recreation Department clearly states that "without the viewpoint, the property would lose its value for the State and the site would be reassessed for value of retention."

3.2 OAR 660-05-020(2)(b). The Board finds that areas which do not require a new exception cannot reasonably accommodate the use.

1. Alternative areas in Yamhill County were examined by the applicant and his representative.

2. No other areas which do not require an exception were located. Other potential areas which could reasonably accommodate the use were located on lands more suitable for commercial agriculture than the subject property (better soils, slopes, and lower elevations).

3. A similarly sized parcel zoned LDR-5 was being re-zoned back to a non-exception (resource) status while this application was in process. No net loss of resource-zoned land will occur as a result of this application.

3.3 OAR 660-04-020(2)(c). The Board finds that the long-term environmental, social, and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception.

1. The subject property has a full complement of services which are characteristically provided in conjunction with rural residential development. These services include but are not necessarily limited to: electric power, paved road access, domestic water (LA Water Cooperative), telephone, fire protection, police protection (county sheriff), and school bus service to nearby schools.

2. The above-referenced utilities and services can be accommodated at this location with no greater impact than would typically result from the same proposal being located in other areas requiring a goal exception.

3. The subject property can be developed without having to increase the capacity of the electrical and water systems.

4. The subject property can be developed without improving the existing road system.

3.4 OAR 660-04-020(2)(d). The Board finds that the proposed uses comply with the requirements of OAR 660-04-020(2)(d) that the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

1. The only resource use land that borders the property is located south of the subject property, and it is owned by a family member. Adverse impacts to this parcel can be minimized by leaving the existing tree buffer and by maintaining large setbacks through deed restrictions.

2. The property to the south is visually and physically segregated along most of its common border with the subject property by a deep ravine and heavily timbered terrain.

3. The proposed uses can be made more compatible by maintaining large setbacks.

4. Committed Exception under OAR 660-04-028. In the alternative, and in addition to the reasons exception set forth above, this decision is also based on a "Committed Exception". OAR 660-04-028 governs "committed" exceptions, and states:

*"(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.*

*"(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*

- (a) The characteristics of the exception area;*
- (b) The characteristics of the adjacent lands;*
- (c) The relationship between the exception area and the lands adjacent to it; and*
- (d) The other relevant factors set forth in OAR 660-04-028(6)."*

(a) The exception area is a steeply sloping, windswept ridgetop that is surrounded by non-resource uses on three sides. The property has a short growing season due to high elevation. The elevation of the property makes it the highest single spot in Oregon between the Coast Range and Cascade Mountains. The characteristics of the exception area and the cumulative effect of high winds, short growing season, steep terrain and adverse soils, make it impracticable to farm. The steep slopes preclude the use of many types of farm machinery and the impacted borders make the free dispensing of herbicides and pesticides impossible through mechanized means.

(b) The characteristics of adjacent lands make the farming of this property even more impracticable than the adverse site characteristics. The property is bordered on two sides (north and east) by expensive single family dwelling homes. Some of these dwellings are so close to the boundary that the owners are unable to utilize helicopters for harvesting or spraying. Neighboring landowners have complained of spray drift, excessive dust, wind, and noise generated by the helicopters.

The property is bordered on the west by the Bald Peak State Park. The trespass and vandalism caused by park patrons has crippled the farm operations to the point where contract harvesters will not leave their equipment on site overnight.

(c) The relationship between the exception area and the lands adjacent to it is extremely adverse to agriculture. The exception area is very close to high value non-farm residences that have a history of complaining about farming practices, such as spraying for aphids, and helicopter harvesting of Christmas trees.

The relationship between the property owners and the patrons who use Bald Peak State Park is also adverse to agriculture. Park patrons have trespassed onto the property and have vandalized farm equipment and destroyed fences. Farm operators who left their equipment on the property stopped doing so because of vandalism originating from park patrons.

(d) The following findings of fact are offered in support of other relevant factors that make farming impracticable:

1. The subject property is located immediately to the east of Bald Peak State Park, which is the highest elevation point between the Cascade and Coast Range Mountains.
2. The high elevation of the property results in a greater preponderance of inclement weather, including ice storms, excessive cloud cover and fog, high winds, heavier snow cover and longer duration of snow cover, and higher rainfall and wetness.
3. The high elevation of the property has a direct impact on the length of the growing season, degree heating days, and consequently on the harvesting of crops.
4. The growing season limits the types of crops that can be grown and increases the risk for any type of crop grown.
5. The soil temperatures and the air temperatures are often inadequate to allow proper blossoming or to allow maturation of crops by harvest season.
6. The higher rainfall amounts and wetness often preclude timely harvesting of crops due to inability of equipment to access the crops.
7. The high wind speeds on the property limit the availability of helicopters for Christmas tree harvesting and for applying aerial sprays to crops.
8. The preponderance of fog on the top of Bald Peak Mountain is also a very limiting factor for aerial equipment.
9. The topography of the site is sufficiently steep that all of the cultivated areas would qualify for highly erodible lands under the Natural Resource and Conservation Service Guidelines.
10. The topography of the site is too steep to allow standard farm machinery unless the machinery has load-leveling or wheel-leveling capability.
11. The use of specialized machinery due to steep topography increases the cost of farming at this site.
12. The collective impacts of short growing season, inclement weather, steep slopes, and shallow soils are contributing factors to the marginal nature of agriculture on this property.

13. The subject property has a long history of crop failures, including English walnuts, prunes, livestock operations, wheat, and most recently, Christmas trees. This history includes crops rotting in the field due to inclement weather, contract farmers refusing rent-free offers to use the land because of inherent risks, and inability of farm operators to employ modern farming practices due to proximity of non-farm dwellings to sensitive farming areas.

14. The contract farmer who is currently working the Christmas trees will not renew his contract due to the high risk of securing a crop.

15. The farmers who formerly farmed the subject property quit despite the fact that the land was offered to them at no cost.

16. The subject property is an isolated farming enterprise and lacks connectivity to other farms in the area in terms of access to machinery and labor.

17. The subject property can only be reached from lower elevation farm operations over steep, narrow, curving roads.

18. The time and effort required to bring the farm equipment from the lower elevations to the subject property is almost cost prohibitive.

19. The Christmas tree operation has sustained significant economic losses due to conflicts arising from aerially spraying Christmas trees for aphids. The Christmas tree grower will not renew a contract to farm the property due to interference from nearby non-farm dwellings.

20. The helicopters used for Christmas tree harvesting have blown debris into nearby residences located in the exception area. The residents have complained about farm practices to the point that it is impracticable to farm the land.

5. The Board finds that the requirements of OAR 660-04-028(6) are satisfied as follows:

5.1 Existing Adjacent Uses.

1. The subject property is bordered on the west by Bald Peak State Park, a State-designated viewpoint.

2. The subject property is bordered on the north by a designated exception area that has been divided into twelve lots.

3. The subject property is bordered on the east and southeast by an exception area containing multiple five-acre lots.

4. The subject property is surrounded on three sides by exception areas that are almost fully developed.

5. The subject property is bordered on the south by resource land which is owned by the applicant's family, thus minimizing the potential for conflict.

6. The existing use pattern is heavily built and committed to alternative uses to resource use.

#### 5.2 Existing Public Facilities and Services.

1. There is a substantial frontage on Bald Peak Road and a designated access entry.

2. Electric power is available along the right-of-way of Bald Peak Road.

3. The L.A. Water Cooperative has water lines along the frontage of the property and along the northern property boundary which could serve the maximum potential number of lots that could be created in the VLDR plan designation.

4. The soils are sufficiently deep so that standard serial distribution sewer systems could be approved.

5. The Yamhill County sanitarian's records for sewage disposal on adjacent and nearby properties with similar soil types support the premise that standard serial distribution systems for sewage disposal would work on the subject property.

6. The property lies within a designated rural fire protection district.

7. The property is served by the Newberg School District.

8. The property is served by the Yamhill County Sheriff's Department for law enforcement considerations.

9. The proposed development will not result in any increase in public services over and above those which currently exist in the area.

#### 5.3 Parcel Size and Ownership Patterns of the Exception Area and Adjacent Land.

1. The property is surrounded by 313 acres of VLDR-5 zoned parcels. All of this area has been subdivided into 5 acre lots.

2. The property is approximately 60 acres in size and would likely result in the creation of 11 to 12 individual 5 acre parcels.

3. The existing development pattern surrounding the property developed as a result of two specific exception issues: the Yamhill County Exception Statement of 1979 and the Sunrise Peak Estates exception taken in 1983 and subdivided in 1983 and 1987.

4. Virtually all of the small parcels which border the subject property are in separate ownerships and area already irrevocably committed to development.

#### 5.4 Neighborhood and Regional Characteristics.

1. The subject property is located in an area where commercial farming is in a rapid state of decline.

2. The neighborhood is characteristically impacted by nonfarm uses, including the Sunrise Peak Estates Exception Areas and the Bald Peak State Park Recreation Area.

3. The neighborhood is now generally lacking in any commercial farming operations.

4. The broader region between Laurelwood and Bald Peak State Park has a significant number of acreage residential developments.

5. The larger commercial farm operations are located at elevations below 1200'.

#### 5.5 Natural or Man-Made Features Separating Exception Area from Adjacent Resource Lands.

1. The subject property has a deep ravine which parallels most of its southern boundary, and which separates the proposed exception area from adjacent resource land.

2. The commercial farm operations to the south of the subject property are also segregated by a block of land (Tax Lots 5900 and 6000) which contains an LA Water Cooperative reservoir.

3. The uses mentioned above effectively impede practicable resource use of the proposed exception area.

#### 5.6 Physical Development.

1. The subject property is physically developed with a gravel road and two outbuildings.

2. The subject property contains an electric power line which served the former residence on the property.

5.7 Comments from DLCD. In response to a notice of the application, DLCD responded by recommending that the request not be approved because information does not support a "built" or "committed" goal exception. However, applicant's representative, Frank Walker, indicated that he has discussed this with DLCD and been informed by them that their position was based on the erroneous assumption that the zone change was for a VLDR 2.5, rather than VLDR 5, zoning district. Therefore, the Board finds that there is sufficient information to support a "built" or "committed" exception notwithstanding the previously stated opposition from DLCD.

6. Planning and zoning of exception areas is also regulated by OAR 660-04-018(2) which states:

*(2) "Physically developed" and "Irrevocably Committed" Exceptions to goals other than Goals 11 and 14. Plan and zone change designations shall limit uses to:*

- (a) Uses which are the same as the existing types of land use on the exception site, or*
- (b) Rural uses which meet the following requirements:*
  - (A) The rural uses are consistent with all other applicable goal requirements.*
  - (B) The rural uses will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-04-028; and*
  - (C) The rural uses are compatible with adjacent or nearby resource use.*

7. The Board finds that the proposed comprehensive plan and zone change complies with OAR 660-04-018(2) as follows. The proposed use of the property is residential development, which is not the same as the existing land use as required under OAR 660-04-018(2)(a), and consequently the uses must be limited to uses that comply with OAR 660-04-018(2)(b). In accordance with OAR 660-04-018 (2)(b), the uses allowed in the VLDR-5 district are consistent with the other goal requirements because there are no identified Goal 5 resources on the subject property, and no other statewide goals apply to the property. Rezoning the property for residential use will not commit adjacent land to nonresource use. Residential use would be compatible with adjacent and nearby land uses.

### **C. Ordinance Provisions and Analysis.**

1. YCZO §1204. Section 1204 of the Yamhill County Zoning Ordinance (YCZO) states that exceptions to statewide goals are subject only to the requirements of the Oregon Administrative Rules discussed in Section B of this report. Therefore the Plan Amendment portion of this request is not subject to local review criteria.

2. YCZO §1208.02. The zone change portion of the subject request must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:

*A. That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*

*"B. That there is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*

*"C. That the proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*

*"D. That other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*

*"E. That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable."*

These criteria are addressed, respectively, in Findings C.3 through C.7, below.

3. YCZO §1208.02 A. The Board finds that the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan as required by YCZO §1208.02 A, as follows:

3.1 There are two relevant Comprehensive Plan provisions. Comprehensive Plan goals and policies, Policy (a) of Goal I.B.2 states:

*Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivisions, partitioning, or development and by virtue of close proximity to existing urban centers; or in small, limited areas having unique scenic, locational and other suitable site qualities where the anticipated magnitude or density of development is not such as to require more than a very basic level of services, such as single local-road access, individual domestic wells and sewage disposal systems, and possible rural fire protection.*

Comprehensive Plan Policy II.A.2.a states:

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

3.2 The Board finds that these policies are not independent approval standards, but rather are merely aspirational and is satisfied through approval of a reasons exception. That these are not independent approval criteria is evident from the county's plan which states:

*" \* \* \* Goals are general directives or achievements toward which the County wishes to go in the future. Policies are more specific statements of action to move the County towards attainment of those goals. These policies are used in daily decision-making or in the development of ordinances by the county.*

*"Implementation of the County goals and policies can occur in several ways. Many are implemented by county ordinance. Other goals and policies will apply to individual issues or proposals put forth by both private and public sectors. Still others will require action dependent upon the county's fiscal resources at the time.*

*"Where certain goals and policies conflict with others, the final decision will require weighing of the merits in order to achieve a balanced decision. Through time, the goals and policies are guides for consistent, reasonable, and balanced land use decisions."* Revised Comprehensive Plan page 2.

Therefore, the Board finds that if Policies conflict, it requires a weighing on the merits in order to achieve a balanced decision.

3.3 The Board also finds that even if Policy (a) of Goal I.B.2 were otherwise to be considered an independent approval standard, it would nevertheless not apply in this case because a Goal 3 reasons exception is taken. YCZO Section 1204 provides that exceptions are subject only to the OARs and not subject to local review criteria and may be taken using the Type C procedure under YCZO Section 1301. Policy II.A.2.a is intended to carry out statewide goal 3. This interpretation is consistent with past practices insofar as the county has other areas of Class I through IV soils for which exceptions have been taken and acknowledged by LCDC to be in compliance with the statewide goals.

3.4 In the alternative, the Board finds that Policy II.A.2 ( Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service) either does not apply or, if it does, is not violated, for the following reasons:

1. The subject property has a mix of soil classifications which were identified through the generalized *Soil Survey for Yamhill County Area, Oregon*.
2. The subject property has the exact same type of soils which are mapped in the Sunrise Peak Estates Exception Areas.
3. The Sunrise Peak Estates Exceptions Areas were approved based on a finding that the soils were generally unsuitable for the production of farm crops and livestock.

4. YCZO §1208.02 B. The Board finds that the application satisfies the YCZO §1208.02 B requirement that there is an existing demonstrable need for the particular uses allowed by the requested zone, considering the following:

1. The area above 1300' was examined for the number of acres in VLDR-5 zoning. It was determined that 313 acres are zoned VLDR-5.

2. There are 23 vacant and available parcels within the 313 acres.

3. There are 23 parcels without structures.

4. According to the Portland State University Center for Population Studies, Yamhill County's population increased from 57,100 in 1986 to 77,558 in 1995. The ratio of lots per 1000 population, however, decreased from .49 in 1986 to .30 in 1995; therefore, the need for VLDR-5 zoned land has increased.

5. YCZO §1208.02 C. The Board finds that the requirements of YCZO §1208.02 C are satisfied as demonstrated under the findings for OAR 660-04-028.

6. YCZO §1208.02 D. The Board finds that the application satisfies the YCZO §1208.02 D requirement that other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.

1. The uniqueness of the subject property in terms of elevation and proximity to existing developed areas is a condition not generally found elsewhere in the county.

7. YCZO §1208.02 E. The Board finds that the application satisfies the YCZO §1208.02 E requirement that the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable. The OAR requirements are addressed in Section B of these findings.

This proposal is consistent with the "Committed Exception" requirements of OAR 660.04-02.

#### **CONCLUSIONS:**

1. The reasons presented by applicants successfully justify why the land need not be designated for agricultural use.

2. There are no other sites available to accommodate the use that do not also require a new exception.

3. The long-term environmental, economic, social, and energy consequences of the proposed uses are not significantly more adverse than would result from the same development at a different location.

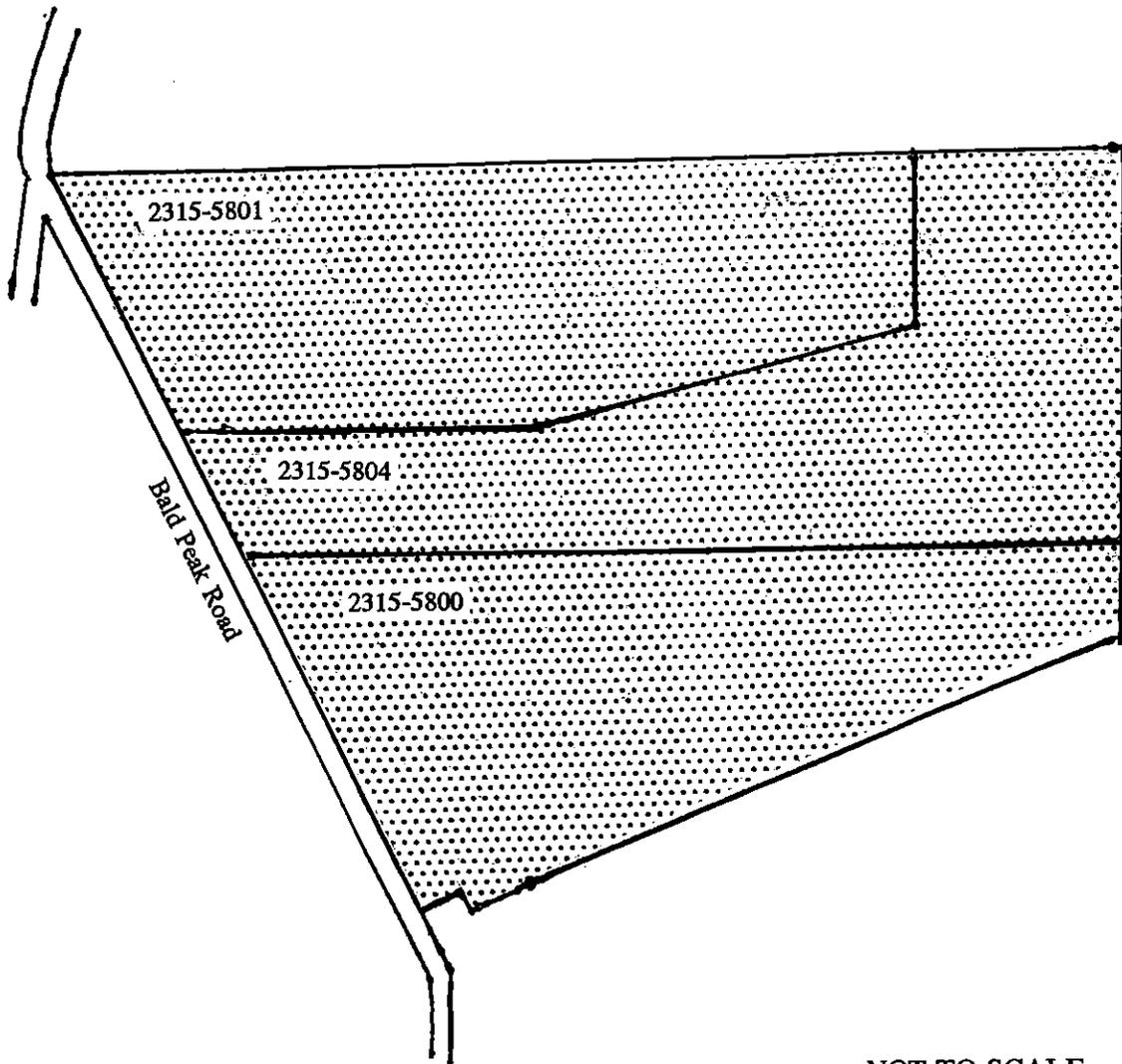
4. The proposed uses can be rendered compatible with other adjacent uses.
5. The request complies with the Oregon Administrative Rule requirements for a "Committed" exception and a "reasons" exception.
6. The amendment is consistent with the Yamhill County Comprehensive Plan.
7. There is a need for the uses requested considering the demand and the location of other lands appropriately zoned.
8. The amendment is appropriate considering surrounding land uses and the pattern of development in the area.
9. The request complies with the quasi-judicial zone change standards in Section 1208 of the Yamhill County Zoning Ordinance.

**DECISION:** The Board approves the request to change the Comprehensive Plan Map designation from Agriculture/Forestry Large Holding to Very Low Density Residential, to amend the Official Zoning Map from Agriculture/Forestry (AF-20) to Very Low Density Residential (VLDR-5) and takes exception from Statewide Land Use Planning Goals 3 and 4 on Tax Lots 2315-5800, 2315-5801, and 2315-5804.

H:\Admin\pinkstj\PAZ-4-95.EX3

# EXHIBIT "B" FOR ORDINANCE No. 600

ZONING AND COMPREHENSIVE PLAN  
MAP AMENDMENT  
TO CHANGE THE ZONING MAP  
DESIGNATION FROM  
"AF-20" AGRICULTURE/FORESTRY LARGE HOLDING  
TO "VLDR-5" VERY LOW DENSITY RESIDENTIAL



NOT TO SCALE

AREA SUBJECT TO COMPREHENSIVE  
PLAN AND ZONE MAP AMENDMENT

PREPARED BY YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

ORDINANCE 600  
Exhibit "B"