

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

83-528

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED  
YAMHILL COUNTY, OR.  
Nov 8 10 15 AM '83  
CHARLES STERN  
COUNTY CLERK  
DEPUTY

In the Matter of an Ordinance )  
to Implement Planning Commission )  
Resolution 83-11 and Authorizing )  
an Amendment to the Yamhill County )  
Comprehensive Plan Map, Ordinance )  
No. 62, 1974, Affecting Approxi- )  
mately a 350+ Acre Tract, Located )  
in the West Half of Section 29, )  
T4S, R5W, Consisting of Tax Lots )  
4529-100 through 4529-6100, Ex- )  
cluding Tax Lots 800,900,1000,1100, )  
1400, 1500, 1600 and 1700, Requested )  
by the Eagle Point Homeowners Associa- )  
tion )

ORDINANCE NO. 357

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), on the day of November, 1983, sat for the transaction of County business, in special session, Commissioners Robin J. Hamblet, Dave Bishop and Ted Lopuszynski being present.

WHEREAS, Section 6(4) of Ordinance No. 62, 1974, provides that an application for an amendment to the Yamhill County Comprehensive Plan Map shall first be referred to the Yamhill County Planning Commission and that Planning Commission shall recommend approval or denial of such application to the Board of Commissioners; and

WHEREAS, the Eagle Point Homeowners Association has filed an application with the Yamhill County Planning Department to change the Comprehensive Plan Map relating to the above-mentioned tax lots; to-wit, a change in the Comprehensive Plan Map on the above-mentioned parcels from "Commercial Forestry" to "Very Low Density Residential"; and

WHEREAS, on the 7th and 21st days of April, 1983, the Yamhill County Planning Commission held public hearings relating to said request and voted to allow an amendment to the Yamhill County Comprehensive Plan Map, 1974, on the above-mentioned parcels, to allow the Plan Map designation to be changed from "Commercial Forestry" to "Very Low Density Residential"; and

WHEREAS, on the 20th day of July, the 3rd day of August, the 28th day of September, and the 26th day of October, 1983, the Yamhill County Board of Commissioners held public hearings to consider the action of the Planning Commission and voted to approve a change in the Comprehensive Plan Map designation relating to the above-mentioned tax lots to "Very Low Density Residential" from "Commercial Forestry" and further voted to attach and conceptually approved a Planned Unit Development Overlay relating to the property in question;

NOW, THEREFORE, based upon and for the reasons set forth in the attached Resolution and the Findings attached hereto, IT IS HEREBY ORDAINED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

- Section 1. That the Comprehensive Plan Map of Yamhill County be and hereby is amended to change the Plan Map designation on the subject properties above-mentioned from "Commercial Forestry" to "Very Low Density Residential" consistent with and as set forth in the attached Resolution and the findings of the Yamhill County Board of Commissioners with a Planned Unit Development Overlay.
- Section 2. That the Comprehensive Plan of 1974 as amended by the Revised Goals and Policies of 1979 be and hereby is amended to incorporate the findings and Exceptions Statement attached hereto.

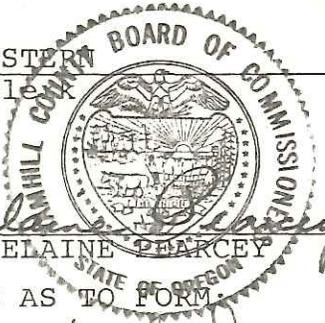
Section 3. This Ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency being declared to exist, shall be effective immediately upon passage hereof.

DONE this            day of November, 1983, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk



By: *Elaine Pearcy*  
Deputy ELAINE PEARCEY

APPROVED AS TO FORM:

*Robin J. Hamblet*  
Chairman ROBIN J. HAMBLET

*Dave Bishop*  
Commissioner DAVE BISHOP

By: *Daryl S. Garrettson*  
For DARYL S. GARRETTSON  
County Counsel

*Ted Lopuszynski*  
Commissioner TED LOPUSZYNSKI

In the Matter of an Amendment to the )  
Yamhill County Zoning Ordinance, )  
Ordinance No. 310, 1982 as requested ) RESOLUTION No. 83-11  
by Eagle Point Homeowners Association )

THE PLANNING COMMISSION of Yamhill County, Oregon, on the 7th and 21st days of April, 1983, sat for the transaction of County business at regularly and specially scheduled sessions. Planning Commissioners Sadler, Grimm, Stockhoff, Bunn, Bennette, Treadway, Miller, Schatz and Weidemann were present.

WHEREAS, ORS 215.020 provides that a governing body may create a county planning commission and, pursuant to ORS 215.406, may designate the planning commission to serve as a hearings officer with all the power and duties of a hearing officer as prescribed by ORS 215.010 and 215.402 to 215.422; and

WHEREAS, the Yamhill County Board of Commissioners created the Yamhill County Planning Commission by adoption of an unnumbered Board Order on the 6th day of November, 1957, and designated that planning commission as the hearings body for petitions for amendments to the Yamhill County Zoning Ordinance, No. 310, 1982 by adoption of Ordinance No.138 on the 1st day of June, 1977; and

WHEREAS, it appears to the Planning Commission that a petition submitted on behalf of Eagle Point Homeowners Association has been filed with the Yamhill County Department of Planning and Development, pursuant to Section 1207 of Ordinance No. 310 to amend said Ordinance, and change the Official Zoning Map designation from F-40 for a parcel described as being 350+ acre tract; and

WHEREAS, the Sheridan Planning Advisory Committee reviewed the amendment request at a public meeting and recommended approval of the request; and

WHEREAS, the Planning Commission, on the 7th and 21st of April, 1983, held public hearings as required by ORS 215.223 and 215.416 on the proposed amendment and voted to approve the request based on the findings and conclusions attached hereto as Exhibit "A" and by this reference made a part hereof;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Official Zoning Map be and hereby is amended to show the Zoning Designation on a 350+ acre portion of Yamhill County basically encompassing the west 1/4 of Section 29, T4S,R5W, W.M., as VLDR-5 as shown on the sketch plan attached hereto as Exhibit "B" and by this reference made a part hereof.

This resolution shall be in force and effect from and after the date the change is properly recorded on the Official Zoning Map. The Yamhill County Planning Director be and hereby is directed and authorized to amend said Official Zoning Map in conformance with this Ordinance.

Such amendment is to be done in conjunction with a Comprehensive Plan Map change from Commercial Forestry to VLDR, recommended by the Planning Commission to be approved by the Board of Commissioners for the same area.

DONE this 21st day of April, 1983.

AYES: Treadway, Bunn, Weidemann, Grimm, Miller, Schatz, Bennette

NAYES: Sadler, Stockhoff

ABSTENTIONS: \_\_\_\_\_

Approved by the Chairman on this 5th day of May, 1983.

ATTEST:

  
Lynn Steiger, Planning Director

YAMHILL COUNTY PLANNING COMMISSION

  
Dick Sadler, Chairman

## FINDINGS FOR PLAN AMENDMENT

### FINDING #1

The Board of Commissioners finds the following to be the applicable criteria by which this application is to be judged.

Statewide Planning Goals 3; 4, 5, 6.

Yamhill County Comprehensive Plan Revised Goals and Policies, 1979, Section 1, Subsection B, Goals 1 and 2; Subsection C, Alternate Development Policies; Subsection E, Goal 1. Section 2, Subsection A, Goals 1 and 2; Subsection B, Goal 1; Subsection D, Goal 1; Subsection E, Goal 1. Section 3, Subsection A, Goal 1. Section 4, Goal 1. Section 5, Goal 1.

Ordinance 233, Resolution of Big Game Sensitive Winter Range Wildlife Habitat Conflicts.

Zone Ordinance Amendment Criteria, Section 1207.02 (B), Subsections 1 through 4.

### FINDING #2

In regard to Statewide Planning Goal 3, the Board finds as follows:

- a) That the predominant soil type in the area under consideration is Class IV, with significant amounts of Class VI.
- b) The subject land is not agricultural land within the definition of Goal 3 in that said land cannot presently or in the foreseeable future be farmed by any reasonable or prudent farmer. This finding is based on the existing parcelization in that there are presently 59 lots under consideration in this application, owned by 47 different owners, said lots having been acquired prior to the planning and zoning of the subject area. Further, the land is subject to restrictive covenants which prevent the clearing of land for agricultural purposes. The land is covered by heavy forest cover consisting of oak and fir which would make cultivation difficult if not impossible, unless the land was cleared; this cannot occur as the result of restrictive covenants. The average parcel size is about five acres. Further, over 35 percent of the subject property is sloped in excess of 20 percent. The Board finds that it is not reasonably foreseeable based upon the testimony of the applicants that they can ever achieve a 3/4

majority to alleviate or eliminate the restrictive covenant preventing the clearing of land. That the restrictive covenants also specifically restrict the types of agricultural uses that occur on the property. The covenants are:

Section II, (a), (3) of "A Declaration of Restrictives, Covenants and Conditions..."

- b) No change shall be allowed in the natural or existing drainage of surface waters, and
- d) No living tree having a height of 12 feet or more and having a trunk measuring 6 inches or more in any diameter at ground level shall be destroyed or removed (with additional exceptions allowed for minimal domestic purposes - fire wood, fenceposts, etc.).

Section III

- c) No barn or other improvement to house horses shall be constructed on any lot containing less than three acres and in that event, no closer than 60' to the property line.
- e) No property on the ranch shall be used for any purpose considered dangerous or unsafe by the Association or for any purpose constituting a nuisance.

Therefore the Board finds that the land in question is, due to both ownership, topography, parcelization and the restrictive covenants placed thereon, not presently nor in the foreseeable future farmable by any reasonable and prudent farmer.

- c) The Board finds that even if its interpretation of Goal 3, as stated above, in its application to the land in question is in error, that reasons exist for an exception to Goal 3 pursuant to HB 2295, and the Board adopts the Exceptions Statement attached hereto as an exception to Statewide Goal 3 in the event said Goal is found to be applicable.

FINDING #3

The Board finds that the application under consideration complies with Statewide Planning Goal 4 for the following reasons, and based upon the following facts:

- a) The lands in question are forest lands in that the soil is predominately site Class 2 and 3 for Douglas fir and have previously been zoned by the County Forestry-40. However, in making this determination, the Board would note that this decision is far from clear in that the restrictive covenants presently in place on the property would restrict the cutting of timber thereon to noncommercial uses only, and that the property is already divided into 59 lots with 47 different owners, and that the property would be deemed developed under ORS Chapter 92, specifically ORS 92.225.
- b) The Board specifically finds that the proposed Plan Amendment and Zone Change complies with Goal 4 in that it complies with the Yamhill County Comprehensive Plan. Goal 4 provides that forest lands shall be preserved unless the proposed change complies with the Comprehensive Plan. In making this finding, the Board specifically adopts Finding #5 through 17, wherein the Board has found that the proposed Plan Amendment and Zone Change comply with the Yamhill County Comprehensive Plan, 1974, as amended by the Revised Goals and Policies, 1979.
- c) The Board finds that the proposed Plan Amendment/Zone Change complies with Statewide Planning Goal 4 in that the planned unit development overlay imposed by the Board of Commissioners is part of this application, and as conceptually approved along with the restrictive covenants will insure that the land in question will preserve and maintain the forest character. Goal 4 provides for several forest uses in addition to the harvesting of timber for commercial purposes and these include the maintenance and preservation of the forest cover, protection of habitat, preservation of open space and protection of the soil from erosion. The Board finds that these purposes of the Statewide Planning Goal 4 are met by the application for the following reasons:

1) That dwellings in the forest area or on forest lands are not per se a violation of Goal 4, provided the dwellings are in conjunction with a related forest use. The Board finds that the dwellings which may be developed on the parcels in question would be, for forest purposes, pursuant to the planned unit development overlay and the restrictive covenants as set forth below.

2) That the planned unit development overlay will provide for specific conditions on the siting, locating and landscaping of dwellings along with the provision for adequate water resources in order to assure a significant fire protection prevention and abatement system for the area. The Board finds that this is a significant improvement in the preservation and safety of adjacent forest lands in that presently there are 59 lots which are legal lots of record, that are utilized for various activities from camping to recreational visitation, as well as being subject to vandalism and trespass. As it presently stands, there is no adequate fire protection system in existence to insure that should a fire occur, it would not spread to adjacent forest lands. The Board finds that the early detection of fire and its suppression is critical for the prevention of major forest fires, and the resultant deleterious effects on the forest resource base of Yamhill County.

3) The Board finds that the proposed PA/Z will preserve open space in the area and that the restrictive covenants specifically provide measures to insure retention of the open space character as follows:

Preamble: "...the development and use of Eagle Point Ranch serves both public and private interests by fostering a beneficial land use which retains the unique beauty of the land and creates an atmosphere enriching the spirit of its residents and visitors.

It must be assumed that all future owners of property within Eagle Point Ranch, by virtue of their purchase of such property, are motivated by the character of the existing environment and the promise of retaining such character by acceptance of such restrictions as are necessary for such retention..."

Section I, (b) - The Association shall maintain or provide for the maintenance of the common area and all improvements located there on the trails established as a part of the protection of that common area.

(c) - The Association shall enter upon and maintain, or provide for the maintenance of any private area which is not maintained by the owner in accordance with requirements described herein related to private area. ...

Section II, (a) - The Association shall appoint members of a Building Committee which shall have jurisdiction over the design of all buildings and improvements in common areas and adherence to restrictions noted hereafter. ...

1) The Building Committee shall be consulted prior to any building or improvements in any private area.

3) Except to the extent reasonably necessary for the construction or alteration of any improvement for which the owner has obtained Building Committee approvals.

a) no excavation or fill which would be visible from neighboring property shall be created or installed on private or common areas, and

b) no change shall be allowed in the natural or existing drainage of surface waters, and

c) no power, telephone or other utility line (wire or conduit) which would be visible from neighboring property shall be installed, and

d) no living tree having a height of 12 feet or more and having a trunk measuring 6 inches or more in any diameter at ground level shall be destroyed or removed (with additional exceptions allowed per normal domestic purposes - fire wood, fenceposts, etc.).

e) no litter, debris, or disposed refuse (including non-operable automobiles) shall be stored or left on any parcel for a period in excess of seven days.

4) Any owner proposing to construct or alter any improvement within his private area shall apply to the Building Committee for approval as follows:

a) The owner shall notify the Building Committee of the nature of the proposed work and the Committee shall thereupon furnish such owner with a building guide which summarizes the ecological factors relevant to the design, construction and maintenance of such improvements.

b) Following acknowledgement of the receipt of the building guide, the owner shall submit to the Committee for approval such plans and specifications for the proposed work as the committee deems necessary, including:

- (aa) A plat plan of the lot or parcel showing
- (i) contour lines
  - (ii) the location of all existing and/or proposed improvements,
  - (iii) the proposed drainage plan
  - (iv) the proposed sanitary sewer facilities
  - (v) the location of all existing trees with trunk diameter greater than 6 inches located within 100' of the proposed improvement
  - (vi) such trees which the owner proposes to remove, and
  - (vii) the location of all proposed utility installations;...

Section 111, (b) - All buildings shall be located at least 30 feet from property lines which might be recognized as side or backyard lines and at least 60 feet from the center line of the road serving the property in question. Exceptions to side or back line setbacks may be made on approval of the Building Committee if structures on adjacent lots or parcels are designed as a single visual element and are visually connected by fences, berms, or other major landscape elements.

4) The Board specifically finds that wildlife habitat in the area will be protected and enhanced as a result of this application and that restrictive covenants prevent the destruction of habitat and that wildlife in the area will be protected through conditions in the PUD which could restrict fencing and habitat destruction. In addition, the planned unit development overlay will require the applicant to undertake reasonable conditions requested by the Fish and Wildlife Department to ameliorate site specific habitat conflicts.

5) The Board finds that this proposal will protect the fragile soils of the area from erosion in that development and maintenance of roads will be subject to a safe, orderly and regulated process which will insure that excessive run-off and destruction of bank stability which tends to occur in areas where roads not subject to regulation will not occur. In addition, the siting and location of each dwelling will be subject to the PUD control which will insure that dwellings are not placed in an area which will increase erosion potential or seriously deteriorate the soils in the area. Without approval of this proposal with the accompanying PUD, the applicants would be entitled to improve the roadway systems in any manner they felt appropriate, without regard for the fragile soils of the area.

d) The Board finds that even if it is found to be in error in its determination that Goal 4 has been complied with in this application, valid reasons exist for taking an exception to Goal 4, and the Board adopts the Exceptions Statement attached hereto as an exception to Goal 4 in the event its determination of Goal 4 has been complied with by this application is found to be invalid.

### FINDING #3

Statewide Planning Goal 5 requires the preservation of open space. The Board finds that the proposed PA/Z complies with Goal 5 in that the application with the accompanying covenants and

restrictions and PUD will preserve the natural state of the area. If the Commissioners were to turn down this proposal, a majority of the lots in the area may qualify for development without discretionary review under Section 1204.04 of the Yamhill County Zoning Ordinance as acknowledged. In addition, the remainder of the lots would qualify for the right to apply for a discretionary permit to develop a dwelling on the property under the conditional use procedure found in Section 1202 of the Ordinance. Neither of those procedures would be ones by which the County would be able to insure the significant open space nature of the area would be preserved. By approving a PA/Z with a PUD overlay, the Board is able to insure the orderly and efficient development of the property while at the same time preserving the open space characteristic of the area. It must be remembered that this area, as it exists now, has 59 legal lots of record as defined in the Yamhill County Zoning Ordinance as acknowledged, and 47 individual owners. If the area is allowed to develop on an individual fashion, damage to the natural environment could not be prevented by the County.

FINDING #4

The Board finds that the proposed PA/Z complies with Statewide Planning Goals in that any and all development which would occur in the area would be subject to DEQ permits and rules.

The Board notes that presently there are outhouses and vault privies located within the Eagle Point Ranch area, and these are nonconforming uses, and have a right, under pre-existing DEQ regulations to continue to exist. The Board notes that these outhouses and vault privies are unsanitary and injurious to the health, safety and welfare of the citizens of Yamhill County. The Board further notes that there is no incentive for any person to alleviate or improve upon or eliminate these nonconforming uses to long as there is no general development plan approved and authorized by the County. The Board further notes the PUD overlay will require that these nonconforming uses be eliminated prior to the issuance of any building permit and that all future development will comply with all DEQ permits relating to discharge of effluent prior to issuance of building permits in accordance with the restrictive covenants and PUD requirements.

FINDING #5

The Board of Commissioners finds that the proposed PA/Z complies with Section 1, Subsection B, Goal 1, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979. Said Goal provides that it will be the goal of Yamhill County to provide an

adequate amount of land, development areas, and sites to accommodate those uses which are customarily found in rural areas or are better suited or require rural location without compromising the basic goals relating to urban containment and orderly development. The Board finds that this land policy is complied with in that basic rural residential development has been found by the Board, in previous application, and by Plan Map determinations to be an appropriate rural area use, better suited to the rural locations, and one that does not compromise the urban containment policies, provided that other resource provisions in the Yamhill County Comprehensive Plan are adequately dealt with. In addition, the Board finds that urban containment would not be affected by this application in that the property in question has already been parcelized, there being 59 parcels and 47 owners. The Board also finds that Policy B of said Goal is met as follows:

- 1) The Applicant has submitted a planned unit development proposal which sets forth the phased improvements of the site; including roads, utilities, fire protection measures, and phased parcel development upon completion of infrastructure improvements.
  
- 2) The record reflects a total of six septic permits within the project area, five of which have been installed in accordance with DEQ requirements; in addition nine sites have received subsurface sewage site evaluation approvals; prior to development all parcels proposed for recognition are subject to DEQ subsurface disposal requirements; the Board notes that the Subdivision Section of the State of Oregon Real Estate Commission granted a "waiver of public disclosure" documentation to the developer, Bob C. Hemstreet, on July 16, 1968; and all applicable health, safety, and environmental controls shall be adhered to through the PUD requirements.
  
- 3) The Eagle Point Homeowners Association has assessed each of their members a development fee of \$25 per lot per month over the past two years, and propose maintaining a lot by lot development and maintenance assessment for the purpose of securing the necessary development funds for the improvements set forth in the conceptual PUD plan. The Board finds that the Eagle Point Homeowners Association has adequately demonstrated the financial capability and responsibility to complete the required improvements.

The Board also finds that Policy C, which further defines the Goal is met in that the properties are appropriately, if not uniquely, suited to the area and site proposed for development, as a result of the existing parcelization, restrictive covenants and ownership pattern. Further, the Board notes the proposed development is not located in any natural hazard area, floodplain or severe drainage or soil limitation area for subsurface sewer. Further, the Board finds that the proposal site has adequate access as set forth in the Yamhill County Zoning Ordinance for rural area development which is as follows:

Section 502.01 of the Yamhill County Zoning Ordinance; "...the VLDR Districts are intended to accommodate rural residential development at an anticipated magnitude or density level that does not require more than a very basic level of services, such as single local road access, individual domestic wells and subsurface sewage disposal system, and rural fire protection."

The Board finds that the access provided for this development as phased and controlled by the PUD will be suitable and appropriate.

In addition, Policy D of said Goal provides that no rural area development shall require the extension of costly services normally associated with urban centers. This proposal will not require said urban level of services, beyond those which are presently available.

#### FINDING #6

The Board finds the PA/Z complies with Section 1, Subsection B, Goal 2, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979, in that the area in question exhibits a high amenity value for rural residential use and does not preempt farm or forest land or generate inordinant service demands of their own. The Board specifically finds there is no preemption of farm or forest lands as a result of the restrictive covenants, parcelization and ownership patterns which exist and have been detailed in the findings related to Statewide Planning Goal 3 and 4 above. In addition, the services required for this development consist of electricity and telephone which services are those normally required by rural residential development, and do not rise to urban levels.

Further, Policy A underlying said Goal provides that the County will continue to recognize that the appropriate location of rural residential development is in areas where commitments to such uses have already been made through existing subdivision partition development or by virtue of close proximity to urban centers. The

Board finds that commitment exists for the parcels in question as the result of the pre-existing partition, which has been recognized by Yamhill County Zoning Ordinance, Section 1204 under which these properties as legal lots of record, and the development of 14 parcels by dwellings and/or subsurface sewage systems, along with the fact that the parcels are owned by 47 different owners. Further, said policy provides that the density of development must be such that it will not require more than a basic level of services such as single or local road access, individual domestic wells, subsurface sewage disposal systems and possible rural fire protection. The Board finds that that is the extent of basic level services to be provided.

FINDING #7

The Board of Commissioners also finds that Subsection C of Section 1, Yamhill County Comprehensive Plan Revised Goals and Policies, 1979 is met by this application and by the application of PUD overlay to the property in question. The Board finds that the PUD concept provides a viable alternative to eventual development patterns as set forth in the policies provided thereunder. Specifically the Board finds that the PUD overlay will not compromise the established disposition of land uses on the Plan Map or the Goals and Policies of the Plan, and will provide a mechanism by which the Board and the County can provide for a reasonable control and phased development of an area, as opposed to piecemeal and individual development which could occur on the property if this application was not granted, and if the planned unit development overlay was not imposed.

FINDING #8

The Board of Commissioners finds that Section 1, Subsection E, Goal 1, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979 will be met by this application. Said Goal provides that the County shall assure the provision of safe, sanitary and decent housing for all residents of the County at reasonable cost. The Board finds that a certain squalor exists in the Eagle Point Ranch area as the result of development which occurred prior to the imposition of restrictions on development by the Yamhill County Planning Department in its effort to upgrade and improve the situation presently existing in the area. The squalor appears in the form of vault privies, outhouses, substandard structures and other nonconforming uses and inadequately constructed or maintained roads. In addition, some residents must haul water to and from the sites.

By approving this application, the Board finds that the owners of property will be able to upgrade and improve the properties in a manner that will allow them to eliminate unsanitary, indecent conditions and provide for sanitary and decent housing.

FINDING #9

The Board finds that Section 2, Subsection A, Goal 1 of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979, is not violated by this application. That Goal provides for the conservation of Yamhill County farmlands for the production of farm crops and livestock to insure that the conversion of farmlands to urban uses where necessary and appropriate occurs in an orderly or economical manner. The Board bases its finding of no violation of this Goal upon the reasons set forth in the Board's findings related to Statewide Planning Goal 3 which was found in Finding #2. In addition, the Board finds that this Goal of the Yamhill County Comprehensive Plan is not violated because no conversion of farmland occurs as a result of the approval of this PA/Z. This is based on the fact that parcelization and ownership already exists, which has previously been recognized by the Yamhill County Zoning Ordinance, Section 1204, and will not be affected regardless of the Board's decision on this application. In addition, the restrictive covenants are already in place on the property and restricts the utilization of the property for either agriculture or forestry uses. In addition, the Board finds that it does not violate Policy E of said Goal, in that the Board is not, by this application, permitting subdivision of land designated F-40 in Yamhill County Comprehensive Plan in that said parcelization pre-existed the zoning designation, and by this approval the Board will not be approving additional lots. In fact the Board finds that by utilization of the PUD overlay and the resulting combining of lots and ownership as a result thereof, that by approving this application, eight fewer lots will exist than would exist if the application were denied and the various lots came in for individual application pursuant to the Zoning Ordinance for conditional use permit dwellings or dwellings as a matter of right. As a result, approval of this application reduces the potential development in the area by eight dwellings.

The Board also finds that Policy F of said Goal is not violated by this proposal in that the justification for this approval is not based totally or even primarily upon the argument that the land is unsuitable for farm or forestry uses. The justification for this approval, relating to farm and forest use does not relate to the land suitability, but rather to the fact that the land is subject to

restrictive covenants which prevent its utilization for farm and forestry purposes. These restrictive covenants limit the uses to which the land can be put, and the restrictive covenants predated the zoning and plan designation for the property in question. In addition, approval of this application is not based on the fact that due to ownership the property is not currently part of an economic forestry or farming enterprise. The property is not presently part of an economic farming or forestry enterprise as the result of restrictive covenants which prevent such activity. The restrictive covenants provide as follows:

Section II, A, (3)

(b) No change shall be allowed in the natural or existing drainage of surface waters, and

(d) No living tree having a height of 12 feet or more and having a trunk measuring 6 inches or more in any diameter at ground level shall be destroyed or removed (with additional exceptions allowed for normal domestic purposes - fire wood, fenceposts, etc.).

Section III

(e) No property on the Ranch shall be used for any purpose considered dangerous or unsafe by the Association, or for any purpose constituting a nuisance.

In addition, the Board finds that based upon all of the above, along with the findings made by the Board of Commissioners under Statewide Goal 3, Finding #2, that the proposed application and approval thereof do not violate the policies set forth in either the Goal above-stated or the policies located thereunder.

In the event that the Board of Commissioners is incorrect in the interpretation that the proposed application and PA/Z complies with the Yamhill County Comprehensive Plan relating to the conservation of agricultural lands, it has always been the Board's interpretation of its Ordinance, that when one of the agricultural goals of the Yamhill County Comprehensive Plan is violated by a proposal, that proposal can still go forward if the exception criteria, then set forth in Statewide Goal 2, and now set forth in HB 2295 can be met. With that

in mind, the Board finds that an Exception would be justified to the agricultural land goal found in the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979. The Exception Statement attached hereto is, by this reference, incorporated herein.

FINDING #10

The Board finds that Section 2, Subsection A, Goal 2, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979 is met by this application. Said Goal provides that Yamhill County soil resources shall be conserved within a manner reflecting the suitability for forestry, agriculture and urban development and the sustained use for the purposes designated on the County Comprehensive Plan Map. In making this finding, the Board notes that as a result of the restrictive covenants located on the property, the soils which are marginal at best, are not suitable or available for forestry or agriculture. In addition, as the parcelization and ownership patterns are added to the restrictive covenants, the Board finds that the soil resource located on the property in question is not suitable for either forestry or agricultural use.

In addition, the Board specifically adopts the findings made in relation to Statewide Plan Goal 3 above and the Exception Statement, in the event that the proposal and approval thereof is found to violate this Goal.

FINDING #11

The Board finds that the proposed application complies with Section 2, Subsection B, Goal 1 of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979. That Goal provides for the conservation and management of the County's forest and range resources, thereby incurring a sustained yield of forest products, adequate grazing area, habitat for fish and wildlife, protection of forest soils, watershed and preservation of recreational opportunities. The Board finds this Goal is met as a result of the restrictive covenants and the planned unit development overlay. The forest cover will be maintained and preserved for the future as a result of this application. Specifically the PUD restrictions relating to fire protection will enhance not only the conservation of forest cover on the parcel in question, but the conservation and safety of commercial forested areas adjacent thereto. Wildlife habitat will be protected through PUD overlay restrictions, requiring

compliance with all reasonable requests from the Department of Fish and Wildlife, and the restrictive covenants preventing the alteration of natural or existing drainage of surface waters and the restriction placed upon trees having a height greater than 12 feet or a diameter at ground level of six inches. (See Section II, a, (3), (b) and (d)).

Further, private recreational use of the property will be enhanced by this development.

In addition, the Board specifically adopts the findings made pursuant to Statewide Goal 4 set forth in Finding #3 and incorporated by reference herein.

Further, the Board finds that in the event the Board is incorrect in its interpretation that the forest land goal of the Yamhill County Comprehensive Plan Revised Goals and Policies 1979 is met by this application; that the Board has consistently interpreted that when the forest lands goal is violated, a proposal can still go forward if an exception is taken. The Board has required that an exception be taken pursuant to Statewide Goal 2, as now set forth in HB 2295. The Board specifically adopts the Exception Statement attached hereto as an exception to the forest lands goal in the event it is determined that the proposed application does not comply with that goal.

#### FINDING #12

The Board finds that the proposed PA/Z complies with Section 2, Subsection D, Goal 1, relating to the conservation of fish and wildlife habitat with Yamhill County. Specifically, the Board finds that in light of Policy D found thereunder, in which the impact of the harvesting of forest areas without forest management plans for regeneration is detrimental to wildlife, and the fact that this application will assure the preservation of forest cover, with the resultant maintenance of wildlife habitat that the goal is met.

In addition, pursuant to Policy C of the goal provided therein, this application will insure that the development which occurs on the subject property will occur in a safe, orderly manner and a manner which will be sensitive to the needs and concern of the Fish and Wildlife Department for the preservation of wildlife habitat. It should be noted that in the event this application is turned down,

approximately 36 of the lots may qualify for building permits without discretionary review and the remainder of the lots could apply for conditional use permits for the development of forest dwellings on a site-by-site basis. The resulting piecemeal development would not insure adequate consideration and concern for wildlife species.

In addition, the Board finds that the proposed development does not involve a habitat which is utilized by endangered or threatened species, and therefore that Policy D of said goal has been met.

In addition, the Board notes that no site specific conflicts were identified by Fish and Wildlife as a result of referral to them and that quarrying for forest purposes would be a permitted use within the forest zone, and that quarrying for forest purposes has substantially greater impact upon wildlife development than this development would have, especially in light of the fact that without approval of this development, no phased controls would be available and the development would occur on a piecemeal basis.

#### FINDING #13

The Board finds that the proposed PA/Z complies with Section 2, Subsection E, Goal 1, relating to the continuance of the open space character that has existed in Yamhill County. This proposal would meet this goal by adherence to the requirements and provisions of the covenants and restrictions and planned unit development. The restrictions and covenants require the maintenance of the forest cover, the maintenance of existing surface water drainage characteristics, setbacks which are more stringent than those of the proposed zoning district, and the maintenance of the visual character of the site. The preamble to the Declaration of Restrictions and Covenants provides, "It must be assumed that all future owners of property within Eagle Point Ranch, by virtue of their purchase of such property, are motivated by the character of the existing environment and the promise of retaining such character by acceptance of such restrictions as are necessary for such retention".

The requirements of the PUD will insure the maintenance of open space through required improvement of the roadway network and enhanced fire protection standards resulting from the site's proximity to other resource lands.

FINDING #14

The Board finds that the proposed PA/Z complies with Section 3, Subsection A, Goal 1, Yamhill County Comprehensive Plan Revised Goals and Policies, 1979 relating to the efficient, safe, convenient, economic transportation and communication system, including roads, etc. The Board finds that this goal is met in that the pre-existing situation consists of 59 parcels owned by 47 individuals, which parcels are served by substandard, unsafe, and sometimes impassable roads. By approving this application with PUD overlay, the County will be able to insure that any development occurs in a phased system, which development cannot occur until an adequate roadway has been constructed to the proposed development site(s). Therefore, by approving this development, the County will be able to improve a pre-existing situation, one which would develop on a piecemeal basis, should this application be denied.

Further, the Board notes that the single access road is consistent with the requirements of the Yamhill County Zoning Ordinance for this very low density residential district, as found in Section 502 of the Zoning Ordinance which provides as follows: "The VLDR Districts are intended to accommodate rural residential development at an anticipated magnitude or density level that does not require more than a very basic level of services, such as single local road access,..."

Further, Policy N of the above-stated goal provides that the County will utilize existing facilities and right-of-ways to the fullest extent possible, provided that the use is consistent with the County Comprehensive Plan. The Board interprets this policy provision to mean that in the development of transportation networks and systems, the Board of Commissioners will be sensitive to the impact that new roads and rights-of-way have on related or adjacent resource type uses. The Board specifically notes that the opening of additional access to this development beside Eagle Point Way will result in substantial impact on either farm or forest uses on the other adjoining parcels. The Board notes that Eagle Point Way traverses an existing accepted and acknowledged rural residential development and connects therewith a major collector, Peavine Road. The Board of Commissioners notes that this access road has no impact on related resource uses.

FINDING #15

The Board of Commissioners finds that the PA/Z complies with Section 4, Subsection A, Goal 1, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979. That Goal provides for the timely, orderly and efficient arrangement of public services facilities, etc., to serve as a framework for urban and rural development. The Board finds that the application is consistent with Policy B thereof in that the proposed development will only require the basic services for rural areas commonly provided for all rural residential development and will not require an urban level of services. Also, the Board of Commissioners finds that since the proposed development will be serviced through a pre-existing rural residential development area, no impact on the adjacent resource related uses will occur nor will there be significant increase in development pressures on those properties.

FINDING #16

The Board of Commissioners finds that the PA/Z complies with Section 5, Subsection A, Goal 1, of the Yamhill County Comprehensive Plan Revised Goals and Policies, 1979 relating to the conservation and protection of natural resources, including air, water, soil, vegetation, wildlife from pollution or deterioration which would dangerously alter the ecological balance, be detrimental to the human health or compromise the beauty and tranquility of the natural environment. The Board finds compliance based on the fact that this property could develop on a piecemeal basis without approval, and by imposition of PUD overlay in conjunction with the restrictive covenants, will insure that the forest cover is preserved, the wildlife protected, soils protected and adequate fire and public health safety measures implemented to insure that the tranquility and beauty of the natural environment will be preserved and the natural resources protected. The facts upon which their findings is based are as follows:

- 1) Lot of Record Definition/Date of Conveyance/Pre-existence
- 2) Restrictive Covenants and Conditions
- 3) PUD Resources (Phased improvements)

1. Lot of Record: The lots within Eagle Point Ranch may be deemed to be lots of record in accordance with the provisions of Section 1204 of the Yamhill County Zoning Ordinance:

- a. The lots were created by instruments of record in the Yamhill County Deed and Mortgage Records prior to October 3, 1975;

- b. Fifteen lots have been approved per subsurface sewage, with six of the fifteen having approved system installations. The remaining lots have a moderate to high feasibility for subsurface approval; and
- c. The lots are accessed by private roads under the authority of the Homeowners Association, and a public single-lane roadway which accesses a paved county rural collector road; and
- d. Of the 59 lots represented by the application, 36 lots are not on any type of farm or forest tax deferral statues, 16 lots are on forest deferral, and 5 lots have been combined into contiguous holdings by the tax assessor's office for taxing purposes.

2. Restrictive Covenants: The Declaration of Restrictions, Covenants, and Conditions delineates requirements to preserve and maintain the existing environmental character of the area;

a. (b) No change shall be allowed in the natural or existing drainage of surface water, and

b. (d) No living tree having a height of 12 feet or more and having a trunk measuring six inches or more in any diameter at ground level shall be destroyed or removed...

c. (e) No litter, debris, or disposal refuse (including non-operable automobiles) shall be stored or left on any parcel for a period in excess of seven days.

d. Section III, (b) All buildings shall be located at least 30 feet from property lines which might be recognized as side yard or backyard lines and at least 60 feet from the outer line of the road serving the property in question.

f. (f) No further subdivison of the parcels or lots shall be allowed except in accord with the County's recorded master plan for land subdivision...

3. PUD Provisions: The proposed conceptual planned unit development provisions, which provides the basis for ongoing improvements and maintenance are as follows:
- a. Phased roadway improvements - The Eagle Point Homeowners Association has proposed a time frame of 15 years within which to incrementally improve the private roadway to an acceptable county standard. The roadway standard will be coordinated by the County Engineer and the Chief of the McMinnville Rural Area Fire District;
  - b. Lot by lot monthly assessment will continue in full until such time as improvement or maintenance funds are no longer needed. The Association has indicated that year round residents or developing properties may be assessed a higher user fee for the roadways;
  - c. Utility improvements, electrical and telephone lines, will be provided in conjunction with the road improvement schedule together with non-exclusive easements for such transmission lines;
  - d. Individual lot development permits shall be withheld pending inspection and approval of the County Engineer, Fire Chief and the Homeowners Association Building Committee;
  - e. Only those lots that have paid the past assessments for roadway and utilities shall be recognized in the PUD process as potentially developable lots;
  - f. The siting of private dwelling units shall be subject to County Planning and Building Department review to insure the proper addressing of fire protection measures, preservation of natural habitat, forest cover, and open space characteristics;
  - g. Adequate provisions during the development process to eliminate or control potential on-site soil erosion; and

- h. Such reasonable requirements as may be suggested by the State Department of Fish and Wildlife to protect and enhance existing habitat.

FINDING #17

The Board of Commissioners finds that the proposed application complies with Section 5, Subsection A, Goal 2 of the Revised Goals and Policies, 1979 of the Yamhill County Comprehensive Plan. Said Goal provides to preserve and enhance the charm and amenities value of the County while accommodating change to insure harmony between urban development and the natural environment, and at the same time cultivating more attractive urban environment in which to live, work and play.

Policy A under said goal provides that the County will work to seek abatement as to aesthetic degradation of the environment resulting from conflicting use of blighted neighborhood, indiscriminate waste disposal, offensive outdoor storage and lack of adequate natural or landscaped open space. The Board notes that all of those concerns are present in the Eagle Point Ranch as the result of the present status. The Board further finds that those concerns will not be abated or alleviated as the result of piecemeal development, but can only be improved through the imposition of PUD overlay which will insure adequate financial base and commitment to the overall improvement of the area.

FINDING #18

The Board of Commissioners finds that the proposed PA/Z complies with the Yamhill County Comprehensive Plan, plan amendment set forth in Ordinance #233. Said Ordinance provides that in the sensitive winter range all proposals for development will be referred to Fish and Wildlife for a determination of conflicts with big game habitat and that the County will not approve a zone change in the event the Fish and Wildlife Department identifies site specific habitat conflicts without seeking resolution of those conflicts. The Board finds that the proposal application falls within the sensitive winter range and that this proposal and plan policy is met. Specifically the Board finds that a referral was made to Fish and Wildlife and the response was received on March 4, 1983, by letter from James Heintz, District Wildlife Biologist. The Board finds that this letter did not identify any site specific habitat conflicts.

However, the Board also finds that despite the failure of Fish and Wildlife to identify site specific habitat conflicts, the Board of Commissioners, through the imposition of a planned unit development, will require that this development comply with all reasonable conditions which Fish and Wildlife may seek to impose to ameliorate such conflicts should they exist. In addition, the Board finds that through the phasing of development in an orderly fashion, the preservation of the forest cover, that wildlife habitat in fact will be improved as a result of this proposal.

#### FINDINGS FOR ZONE CHANGE

##### FINDING #1

The Board of Commissioners finds that the applicant has met the burden of proof pursuant to Section 1207.702 relating to the proposed change. The Board specifically finds as follows:

##### FINDING #2

The Board finds the proposed application is consistent with the goals and policies of the Yamhill County Comprehensive Plan for the reasons stated above in Findings #5 through #18 and by this reference incorporated herein.

##### FINDING #3

The Board finds that there is an existing demonstratable need for the particular use as proposed on the property, once the zone has changed. This determination is based on two factors, the first being the existing development parcelization, etc. The second, the need of the citizens in Yamhill County to insure that rural area developments occur in an orderly, efficient manner. The property subject to the application consists of 59 parcels, with 47 owners. The parcel was divided prior to the adoption of Yamhill County's Comprehensive Plan in 1974, and the parcels are recognized as legal lots-of-record under the Yamhill County Zoning Ordinance, Section 1204.

In addition, 36 parcels of the property may qualify for building permits without discretionary review pursuant to Section 1204.04 of the Yamhill County Zoning Ordinance. Based on these facts, the Board finds that there is an existing need to allow the development to occur based on the existing development of the property and number of owners who have purchased the property. Further, the need is accompanied by the fact that the uses to which the property can be put are very limited by the restrictive covenants placed thereon.

The restrictive covenants prevent the use of property for farm or forest purposes and can only be waived by 3/4 vote of all property owners concerned. The Board of Commissioners note that the possibility of these restrictive covenants being lifted is remote at best, based upon testimony received at the hearings and the further legal complication that it may actually require 3/4 vote of not only the Eagle Point Ranch property owners, but also the Meadowview property owners, to eliminate these covenants. If in fact that is true, and there is a strong probability that it is, and the Board so finds, noting the apparent animosity between the two groups of homeowners, that the Meadowview homeowners would never vote to lift any covenant which might benefit the property owners of Eagle Point Ranch; and as a result thereof, the Board finds it unlikely in the foreseeable future that these will be lifted. Given the fact that the property has been parcelized and is owned by individual owners, and these parcels cannot be utilized for resource land, the Board finds there is public need for the property to be allowed to develop for residential purposes. The Board finds that there is further overriding public concern that any development such as this occur in a timely, orderly and phased fashion in order to insure the amenities of the area, the preservation and protection of adjacent resource uses from conflicts, and the concern for fire safety. The Board finds that this need can only be met through a phased development pursuant to the PUD overlay. The Board further notes that should this application be denied, many parcels will qualify for development as either an outright permitted use as lots of record or through conditional use permit application. In either case, development occurring thereon will be without benefit of a phased development system with adequate protections relating to roadways and fires. For that reason there is a need to approve this application.

FINDING #4

The Board finds that the proposed amendment is timely considering the pattern of development found and changes which have occurred. The Board specifically finds timeliness relates to the ability of the Board at this time to impose a planned unit development overlay to insure a phased development. Without such planned unit development overlay, the property would develop in a piecemeal basis to the resultant detriment of all concerned. Therefore, the Board finds the action to be timely. In addition, the Board finds that the proposed amendment is timely due to the fact

that public disclosure requirements were waived by the State in 1908, the subject lots were sold between 1968 and 1972, tentative partition approval was granted in 1969 and final approval granted in 1971, and the Eagle Point Homeowners Association has demonstrated the intent and ability to complete the required improvements in a responsible manner.

FINDING #5

The Board finds that other lands already zoned and available for the proposed use are unsuitable due to location, size and other factors. Specifically the Board finds that given the pre-existing parcelization and ownership, along with the restrictive covenants, no other lands can provide the use for or improvement of the pre-existing situation. Since these lands are already owned, and subject to development under the Zoning Ordinance, the Board finds that the only suitable lands are these lands.

EXCEPTIONS STATEMENT FINDINGS

The Board finds that an exception is justified pursuant to HB 2295, adopted by the 1983 Oregon Legislature, found in Chapter 827, Section 19A, 1983 Oregon Laws. The basis for the Board's findings are as follows:

FINDING #1

The Board finds that the reasons justify why the state policies embodied in Statewide Planning Goal 3 and 4 and the policies embodied in the Yamhill County Comprehensive Plan Goals relating to the preservation of agriculture and forestry lands should not apply to the application in question. These reasons are the pre-existing parcelization of the property. The property in question was parcelized by conveyance beginning in 1968, and partition approved in 1969 and 1971. Prior to the adoption of the 1974 Comprehensive Plan which was the first restriction placed on the property by any zoning authority, the land was already held by 47 owners, and there are presently 47 owners holding the property in question. In addition, the restrictive covenants imposed on the property at the time it was developed, prior to the imposition of any planning or zoning controls would prevent utilization of the property for agriculture or forestry purposes. Therefore, since the property cannot be utilized for the policies set forth in the applicable goals, the only relief that can be provided for the property owners in question is to allow the property to develop pursuant to a PA/Z change. In addition, by the imposition of a PUD overlay the County is in a position to insure

be met on the property and still be consistent with the restrictive covenants. These relate to fire protection, maintenance of habitat, forest cover, etc. Since the individual parcels could be subject to development on a piecemeal basis, the overall policy and plan in Yamhill County is best served by a phased and orderly development which can occur pursuant to this application and the imposition of PUD overlay.

FINDING #2

The Board finds that areas which do not require a new exception cannot reasonably accommodate this use. Specifically the Board finds that other areas which have acknowledged exceptions may be developable by and for rural residential purposes, but the development of those lands will not solve the ongoing problem relating to the parcelization and ownership of this property in question, which occurred prior to the imposition of planning and zoning controls.

Without some long range solution to the ongoing problem relating to the roads, development, unsanitary conditions, etc., the Eagle Point Ranch area will continue to be a festering source of discontent and an area of unauthorized and unsanitary development. Piecemeal development of the property will not solve these problems. They will only be solved through a Comprehensive Plan Amendment/Zone Change with accompanying PUD overlay which will insure a phased and orderly development.

FINDING #3

The Board finds that the long term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures to reduce adverse impact will not be substantially or significantly more adverse than would typically result in the same proposal being located in areas requiring a goal exception, other than the proposed site.

Since the only areas that require goal exceptions are located within resource zones, any proposed rural area development will have a certain amount of conflict between rural residential uses and resource uses. The property in question will not have any more conflicts than would normally be found in the exceptions situation. In fact, the Board finds that there would be substantially fewer, if any, conflicts as the result of both the restrictive covenants which require the preservation of the forest base, and the PUD which will insure that the orderly development of the properties in question will not conflict adjacent resource uses. In addition, through the

PUD overlay, the County will impose conditions relating to nonremonstrance of accepted farm and forest practices, along with other measures designed to eliminate conflict. Further access to the proposed development area is through a public road which services an adjacent rural residential development and then joins a major arterial. Therefore, significant rural residential traffic will not be placed on the road through or interfere with a farm or forest area. In addition, in approving this application, the Board of Commissioners is not including any new access roads which would take resource land out of production.

FINDING #4

The Board finds the proposed use will be compatible with other adjacent uses or so rendered through measures designed to reduce potential adverse impacts. The Board specifically finds that although on three sides the property in question is surrounded by either farm or forest uses; through the use of the planned unit development overlay, including siting criteria for dwellings, that the dwellings will be located as far away as possible from the resource land. The Board further finds that by the PUD overlay and restrictive covenants which require preservation of forest land the overall stability and habitat of the area will be preserved, and unchanged by this application. Further, the Board finds through the imposition of the PUD overlay conditions relating to fire protection of the adjacent forest areas will be improved by the early detection and suppression of fires. This includes the requirement of PUD overlay of significant water impoundment or storage area be developed to insure an adequate water supply along with adequate pumps to insure early suppression of fires. The Board further finds that development of dwellings in fact will further protect the surrounding forest lands from fires when it is considered that fires relating to dwellings most often occur in the wintertime, when the forests are wet and not susceptible to spreading or significant fires. Whereas fires relating to camping, hunting, trespassing and other vandalistic activities tend to occur in the summertime when the forest is at its driest state. The Board finds that the property in question is subject to trespass and vandalism at this time due to the somewhat isolated nature and sparse development of dwellings. The Board finds that an increase in number of dwellings would eliminate the vandalism and trespass problem and will help to safeguard and protect the forest base. The Board further finds that the parcels constituting Eagle Point Ranch and the Meadow View area were originally sold to Mr. Hemstreet for development by the owner of the adjacent agricultural operation.

FINDING #5

The Board finds that the land subject to the exception is physically developed to the extent that it is no longer available for the uses allowed by the applicable goal. This is based on the fact that the land is divided into 59 parcels, the average parcel size of five acres. In addition, the land is presently owned by 47 owners, and there are presently 14 structures utilized either part or full time for dwelling purposes, located thereon. In addition, since the property contains restrictive covenants which were imposed prior to the imposition of zoning and planning controls, the property is not available for farm or forest uses as a result thereof, and this coupled with the ownership and parcelization pattern along with the number of structures developed make the land unavailable, physically developed and otherwise not subject to the applicable resource goal. In making this finding, the Board also finds that these are the same reasons and justifications made by Yamhill County in taking an Exception for the Meadow View area which Exception was acknowledged by LCDC.

FINDING #6

The Board finds that the land subject to the exception is irrevocably committed because of other relevant factors which make the uses allowed by the applicable goals impracticable. Particularly the Board finds that due to parcel size and ownership, ie., 59 parcels, an average size of five acres, 47 owners coupled with 14 lots, containing structures already constructed for part time and permanent dwellings and restrictive covenants which prevent the utilization of the property for farm and forest purposes that the property is irrevocably committed to nonfarm, nonforest uses and therefore an exception is justified.

