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June 18, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**A Board Order related to a previously approved
Zone Change Application- Z0546-19-Z**

Purpose/Outcomes	<i>Adopt a board order related to a previously approved land use action</i>
Dollar Amount and Fiscal Impact	<i>None identified</i>
Funding Source	<i>N/A</i>
Duration	<i>Indefinitely</i>
Previous Board Action	<i>Board of County Commissioners (“Board” or “BCC”) held a public hearing on June 3 2020, at which time the BCC voted 5-0 to approve the application, and directed staff to draft the board order and the findings of fact, both of which are included with this report.</i>
Strategic Plan Alignment	<i>1. Build public trust through good government.</i>
Contact Person	<i>Nate Boderman, 503-655-8364</i>
Contract No.	<i>None</i>

BACKGROUND:

On March 12, 2020 a public meeting was held before the Historic Review Board (HRB) to consider the proposal in Z0546-19-Z, and at this meeting, the HRB voted unanimously to recommend approval of the proposal to remove the HL overlay on the subject property, known in the Clackamas County Historic Inventory as the William and Lottie Kirchem Farm (SHPO #968). The site characteristics were determined to have changed such that the qualities for which it was originally listed were no longer clearly present on the property.

On June 3, 2020 a public hearing was conducted before the BCC, via Zoom teleconference, to consider a proposal to remove the Historic Landmark (HL) overlay on the subject property located at 17800 Springwater Road. At that hearing, the BCC orally voted 5-0 to approve the

application to remove the HL zoning overlay.

The Board then directed staff to draft an order and findings consistent with its decision. A copy of the Board Order implementing the oral decision, and findings and conclusions to be adopted by the Board has been attached.

RECOMMENDATION:

Staff recommends the Board approve the attached Board Order and the findings and conclusions which are attached thereto.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Nate Boderman".

Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Zoning Map
Amendment, Sara Parsley and Kathleen
Higdon, Applicants on Property Described
as: T2S R3E Section 34, Tax Lot 00900

File No. Z0546-19-Z

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This matter coming regularly before the Board of County Commissioners, and it appearing that Sara Parsley and Kathleen Higdon made an application for a zone change to remove the Historic Landmark (HL) zoning overlay designation from an approximately 5.36 acres of a larger 64-acre parcel located at 17800 S, Springwater Road, on the property described as T2S R3E Section 34, Tax Lot 00900.

It further appearing that, in September of 1994, Clackamas County designated the William and Lottie Kirchem Farm (SHPO#968) as a Historic Landmark (HL) and applied the HL overlay zone to the parcel.

It further appearing that, sometime between 1994 and late 2019 several of the historic agricultural buildings were lost to deterioration and a number of non-historical alterations were made to the farm house.

It further appearing that after appropriate notice, a public meeting was held before the Historic Review Board on March 12, 2020, to consider the proposal in Z0546-19-Z, and at this meeting, the Historic Review Board voted unanimously to recommend approval of the proposal to remove the HL overlay zone; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on June 3, 2020, at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by the vote of 5-0 to approve the application to remove the HL overlay zone.

Based on the evidence and testimony presented this Board makes the following findings and conclusions:

1. The applicant requests approval of a zone change to remove the Historic Landmark (HL) zoning overlay on the subject site due to the fact that the significant historic features of the William and Lottie Kirchem Farm (SHPO #968) have deteriorated such that the site no longer meets the relevant criteria for protection as a Clackamas County Historic Landmark.
2. This Board adopts as its findings and conclusions the *Findings of Fact and Conclusions of Law* document attached hereto and incorporated herein as Order Exhibit A, which finds the application to be in compliance with the applicable criteria.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
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NOW THEREFORE, IT IS HEREBY ORDERED that the requested Zone Map
Amendment is hereby APPROVED, as identified in Order Exhibit A.

DATED this 18th day of June, 2020

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary



**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
PLANNING FILE NO. Z0546-19--Z:
WILLIAM AND LOTTIE FARM
ZONE CHANGE TO REMOVE HISTORIC LANDMARK (HL) OVERLY**

SECTION 1 - GENERAL INFORMATION

Planning File No.: Z0546-19-Z

Adoption Date: June 18, 2020

Applicant(s): Sara Pursley and Kathleen Higdon, representatives of family estate

Owner: Edward Seagraves Estate, PO Box 507, Clackamas, OR 97015

Proposal(s): Removal of Historic Landmark (HL) zoning overlay; resource no longer exists

Legal Description: T2S R3E Section 34, Tax Lot 00900

Site Address: 17800 South Springwater Road, Oregon City

Comprehensive Plan Designation: Agriculture (AG)

Zoning Designation: Exclusive Farm Use (EFU)/Historic Landmark Overlay (HL)

Total Area Involved: 5.36 acres, of a larger 64 acre site

SECTION 2 - DECISION

The Board of County Commissioners (“Board”) finds that this application satisfies all the applicable state, regional and county criteria for the proposed change in the zoning designation for the subject property. Therefore, the Board hereby approves the removal of the Historic Landmark (HL) zoning overlay on the property, as proposed in Planning file Z0546-19-Z.

SECTION 3 – BACKGROUND INFORMATION

Background:

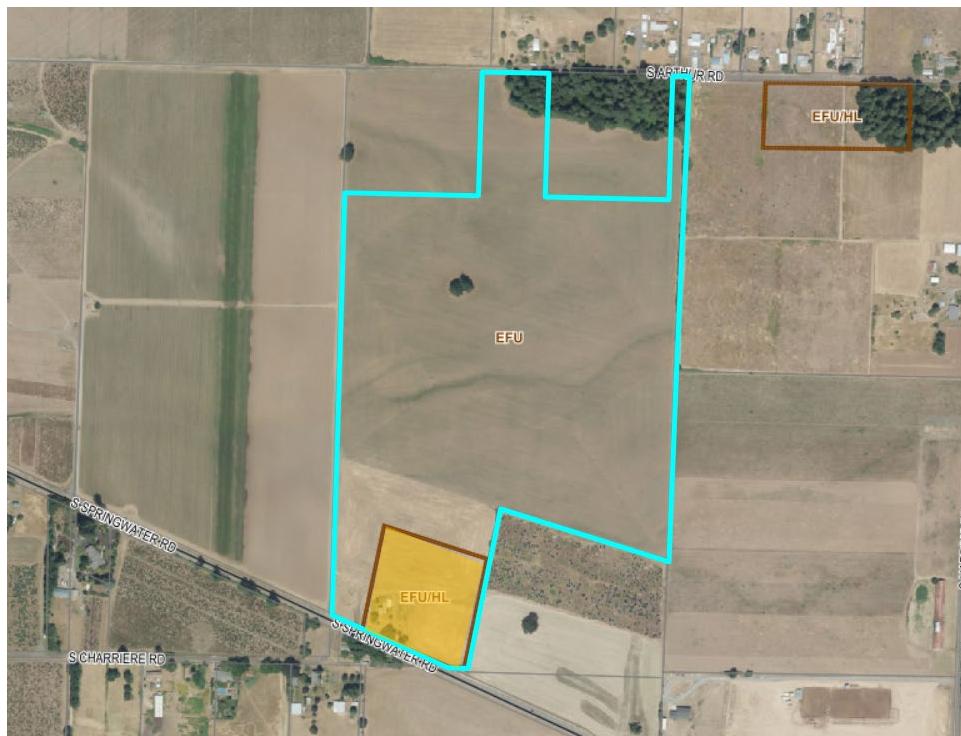
This application includes a proposal to remove the Historic Landmark (HL) zoning overlay on the property located at 17800 South Springwater Road due to the fact that the significant historic elements on the site have been lost to deterioration and modification.

In September of 1994, Clackamas County designated the William and Lottie Kirchem Farm (SHPO# 968) as a Historic Landmark (HL) and applied the HL overlay zone to the site. The site was designated on the basis that it represented an extant collection of agricultural buildings with an association to the patterns of emigration and settlement of the area and the Barlow Road and for the properties vernacular style farm house.

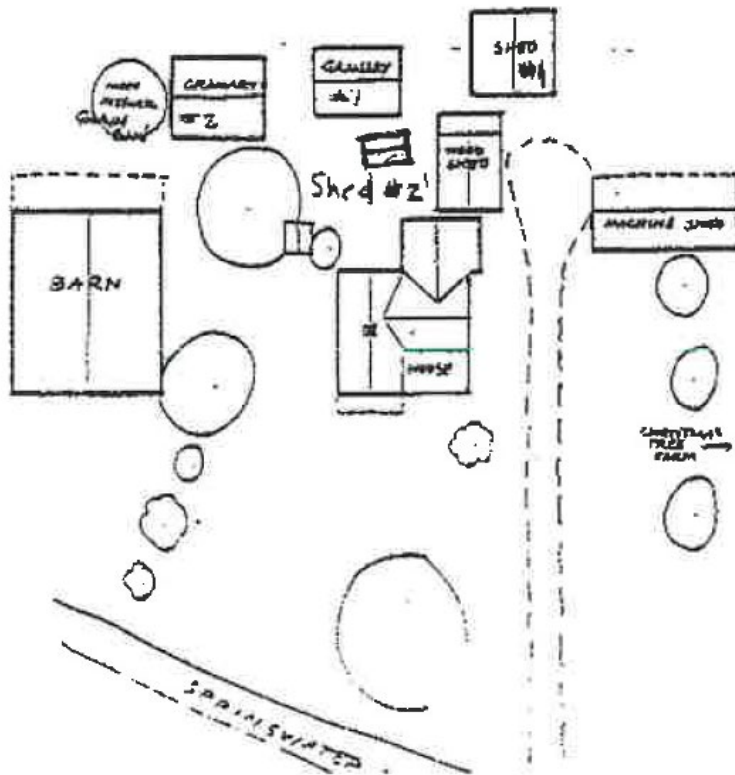
Subsequent to the property being established as a Clackamas County Historic Landmark, many of the outbuildings for which the site was nominated fell into disrepair and were removed. Additionally, the farmhouse was altered repeatedly with non-historic materials, diminishing or removing many of the character defining elements for which the house was originally acknowledged. Though the essential form of the house remains intact, it is now virtually without any of the exterior elements that were present when it was originally established as a Clackamas County Historic Landmark.

Based on the removal of many of the agricultural buildings, and the diminished architectural character of the farm house, the applicant suggests that the essential features for which the site was originally nominated area no longer present, and thus requests the removal of the Historic Preservation Overlay Zoning from the property.

Location Map:



Photographs:



Site Drawing from County Historic Inventory



Aerial Photography, 2018



Current Day Site Photos of Modified Home on Property

Responses Requested:

- a. Community Planning Organization
- b. State Historic Preservation Office (SHPO)
- c. Property Owners within 750'

CPO Recommendation: The subject property is located within boundaries of the Redland/Fischers Mill/Viola Community Planning Organization (CPO), which was notified of the proposal and did not submit comment on the matter.

Public Hearings/Meetings: After appropriate notice, a public meeting was held before the Historic Review Board (HRB) on March 12, 2020, for consideration of the proposal. At this meeting, the HRB voted unanimously to recommend approval of the removal of the HL overlay proposed in Z0546-19-Z.

A public hearing held before the Board of County Commissioners on June 3, 2020. At this hearing testimony and evidence were presented and the Board made the decision, by the vote of 5-0, to approve the application to remove the HL zoning overlay.

SECTION 4 – ANALYSIS AND FINDINGS

This proposal is subject to the relevant Statewide Planning Goals; Oregon Revised Statutes (ORS); Oregon Administrative Rules (OARs); County Comprehensive Plan (Plan) policies, and the County's Zoning and Development Ordinance (ZDO). In an effort to be efficient and concise, only the applicable sections, regulations, and/or policies are noted below and discussed in these Findings.

Because the removal of the Historic Landmark (HL) overlay is technically a zone change, this application is processed as a Type III land use application, in which the Board of County Commissioners (BCC) is the designated decision-making body, after Historic Review Board (HRB) review and recommendation to the BCC on the matter.

1. Statewide Planning Goals and Guidelines

- a. Goal 1: Citizen Involvement. The zone change and map amendment does not propose to change the structure of the county's citizen involvement program. Section 1307 of the Zoning and Development Ordinance (ZDO) contains adopted and acknowledged procedures for citizen involvement and public notification for quasi-judicial actions. This application has been processed consistent with the notification requirements in Subsection 1307, including notice of the proposed amendment to all property owners within 750 feet of the subject property. Also, notice of the Historic Review Board (HRB) meeting and the Board of County Commissioners (BCC) hearing was published in the newspaper and posted on the county's website. The Department of Land Conservation and Development (DLCD) was notified of this proposal, but has not provided a response. **The Board finds that the relevant requirements of Statewide Planning Goal 1 and related provisions of the ZDO have been satisfied.**

- b. Goal 2: Land Use Planning. The zone change and map amendment does not propose to change the county's land use planning process. The county will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. No exceptions from the Goals are required.

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to potentially affected agencies and governments.

Goal 2 also requires that all land use actions be consistent with the acknowledged Comprehensive Plan. As noted below (Subsection 2, *County Comprehensive Plan Policies*) this proposal is consistent with all the applicable criteria in the county's Comprehensive Plan. **The Board finds that the relevant requirements of Statewide Planning Goal 2 have been satisfied.**

- c. Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources*. Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapter 3 (Natural Resources and Energy) and Chapter 9 (Open Space, Parks and Historic Sites) of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

As noted throughout this document, the previously-designated Goal 5 historic resources on the subject property (the William and Lottie Kirchem Farm) have deteriorated and been significantly modified. There are no other Goal 5 resources identified in the Comprehensive Plan located on the subject property. **The Board finds that Statewide Planning Goal 5 no longer applies to the subject site.**

2. County Comprehensive Plan Policies

- a. **Chapter 11 (The Planning Process):** This section of the Comprehensive Plan (Plan) contains a section titled *City, Special District and Agency Coordination*. The Oregon Department of Land Conservation and Development (DLCD) and other identified interested parties received notice of the proposed amendment. This level of notification furthers the goals and policies of this section of the Plan.

Chapter 11 of the Plan also contains a section entitled *Amendments and Implementation*. This section contains procedural standards for Plan amendments, requires the Plan and the ZDO to be consistent with Statewide Planning Goals and Guidelines and Metro's Urban Growth Management Functional Plan, and requires the ZDO to be consistent with the Plan. Policy 3.0 establishes the procedural standards. The process followed for Z0546-19-Z is in compliance with these standards. Specifically, notice was mailed to DLCD and interested parties at least 35 days before the scheduled public hearing, and DLCD, SHPO and property owners within 750 feet of the subject property were provided with an opportunity to review and comment on the proposed amendments. The subject is within the boundaries of the Redland/Fischers Mill/Viola Community Planning

Organization (CPO), which was notified of the proposal. A public meeting was held before the Historic Review Board (HRB) and a public hearing was held before the Board of County Commissioners (BCC) to consider the proposed amendments.

The Board finds that the relevant policies in Chapter 11 are met.

- b. **Chapter 9 (Open Space, Parks, and Historic Sites)** of the County's Comprehensive Plan contains policies for historic resources. The only applicable policy in this case is Policy 4.0, in the Historic Landmarks, Districts, and Transportation Corridors Section.

Policy 4.0. Zone properties Historic Landmark (HL), Historic Districts (HD), or Historic Corridor (HC) which are determined significant by the evaluation criteria.

As noted previously, the site was at one time determined significant by the evaluation criteria (scoring the minimum 40 points); but, due to successive deterioration and modifications, it can no longer be determined to be significant. Therefore the HL overlay zone is no longer appropriate for the subject site. The Board finds the proposed removal of this overlay is consistent with this policy. **This criterion is met.**

3. County Zoning & Development Ordinance (ZDO) Criteria

- a. Section 707.02(B) of the Clackamas County Zoning & Development Ordinance (ZDO) states that *a site, structure, or object may be zoned Historic Landmark if it is listed on the National Register of Historic Places, or if it is rated as significant under the County's procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria.* A site or structure must receive a minimum of 40 points under the required criteria found in Section 707.02(B)1 through 3.

At the time of its original designation as a Historic Landmark, the William and Lottie Farm scored above the minimum required (40 points), largely based on its intact collection of agricultural buildings and the architectural significance of the home. Given that many of the farm buildings have been removed and the home significantly modified, the Board finds it cannot achieve the necessary 40 points and the HL designation is no longer appropriate for the subject site. **This criterion is not met.**

- b. Section 1202 of the ZDO contains the criteria for a zone change.
 - 1) 1202.03(A). *The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.*

As noted in Subsection 2, *County Comprehensive Plan Policies* (above) the proposal is consistent with all applicable Plan Policies and therefore the Board finds that the HL overlay zone is no longer appropriate for the subject site. **This criterion is met.**

- 2) 1202.03(B). *If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider's existing capital improvement plan: sanitary sewer, surface water management, and water. The cumulative impact of the proposed zone change and development of other properties zoning designations shall be considered.*

The Board finds that the removal of the HL overlay does not authorize any development that is not already allowed under the existing EFU zoning and, as such, would not affect the need to provide any of the above-listed public services to the site. **This criterion is met.**

- 3) 1202.03(C). *The transportation system is adequate and will remain adequate with approval of the proposed zone change.*

The Board finds that the removal of the HL overlay does not authorize any development that is not already allowed under the existing EFU zoning and, as such, would not affect the transportation system. **This criterion is met.**

- 4) 1202.03(D). *Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.*

The Board finds that the removal of the HL overlay does not authorize any development that is not already allowed under the existing EFU zoning and, as such, would not affect the transportation system. **This criterion is met.**