



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

July 11, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
 Assistants

**A Board Order related to a previously approved  
 Zone Change Application, Removal of Historic Landmark Designation**

<b>Purpose/Outcomes</b>	<i>Adopt a board order related to a previously approved land use action</i>
<b>Dollar Amount and Fiscal Impact</b>	<i>None identified</i>
<b>Funding Source</b>	<i>N/A</i>
<b>Duration</b>	<i>Indefinitely</i>
<b>Previous Board Action</b>	<i>Board of County Commissioners ("Board" or "BCC") held a public hearing on June 19 2019, 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>
<b>Strategic Plan Alignment</b>	<i>1. Build public trust through good government.</i>
<b>Contact Person</b>	<i>Nate Boderman, 503-655-8364</i>
<b>Contract No.</b>	<i>None</i>

**BACKGROUND:**

On May 9, 2019 a public meeting was held before the Historic Review Board (HRB) to consider the proposal in Z0067-19, and at this meeting, the HRB voted unanimously to recommend approval of the proposal to remove the HL overlay on the subject property. The structure on that site was designated as having historic significance, the Califf Watertower (SHPO #1103), no longer exists on the property.

On June 19, 2019 a public hearing was conducted before the BCC to consider a proposal to remove the Historic Landmark (HL) overlay on the property located at 11315 S Bremer 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 and 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,

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 from Brian Pelster and  
Dianna McGowan, on property  
described as T3S R1E Section 36, Tax  
Lot 01400

File No.: Z0067-19-HL



Order No. \_\_\_\_\_  
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**Whereas**, this matter coming regularly before the Board of County Commissioners, and it appearing that Brian Pelster and Dianna McGowan made an application for a zone change to remove the Historic Landmark (HL) zoning overlay designation from an approximately 19.94-acre parcel located at 11315 S Bremer Road, on the property described as T3S R1E Section 36, Tax Lot 01400.

**Whereas**, it further appearing that, in June of 1993, Clackamas County designated the Samuel & Elizabeth Califf Watertower (SHPO#1103) as a Historic Landmark (HL) and applied the HL overlay zone to the parcel.

**Whereas**, it further appearing that, sometime between 2007 and 2017 the Califf Watertower deteriorated and collapsed and, at present, no longer exists on the property.

**Whereas**, it further appearing that after appropriate notice, a public meeting was held before the Historic Review Board on May 9, 2019, to consider the proposal in Z0067-19, and at this meeting, the Historic Review Board voted unanimously to recommend approval of the proposal to remove the HL overlay zone; and

**Whereas**, it further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on June 19, 2019, 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 structure on the subject site that was designated as having historic significance, the Califf Watertower (SHPO #1103), no longer exists on the property.
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.

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Order No. \_\_\_\_\_  
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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.

ADOPTED this 11<sup>th</sup> day of July, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



Exhibit A

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR  
PLANNING FILE NO. Z0067-19-HL:  
CALIFF WATERTOWER  
ZONE CHANGE TO REMOVE HISTORIC LANDMARK (HL) OVERLY**

**SECTION 1 - GENERAL INFORMATION**

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Planning File No.: Z0067-19-HL

Adoption Date: July 11, 2019

Applicant(s): Brian Pelster & Dianna McGowan

Owner: Brian Pelster, PO Box 236, Troutdale, OR 97060

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

Legal Description: T3S R1E Section 36, Tax Lot 01400

Site Address: 11315 S Bremer Rd, Canby

Comprehensive Plan Designation: Agriculture (AG)

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

Total Area Involved: Approximately 19.94 acres

**SECTION 2 - DECISION**

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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 Z0067-19-HL.

**SECTION 3 – BACKGROUND INFORMATION**

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Background:

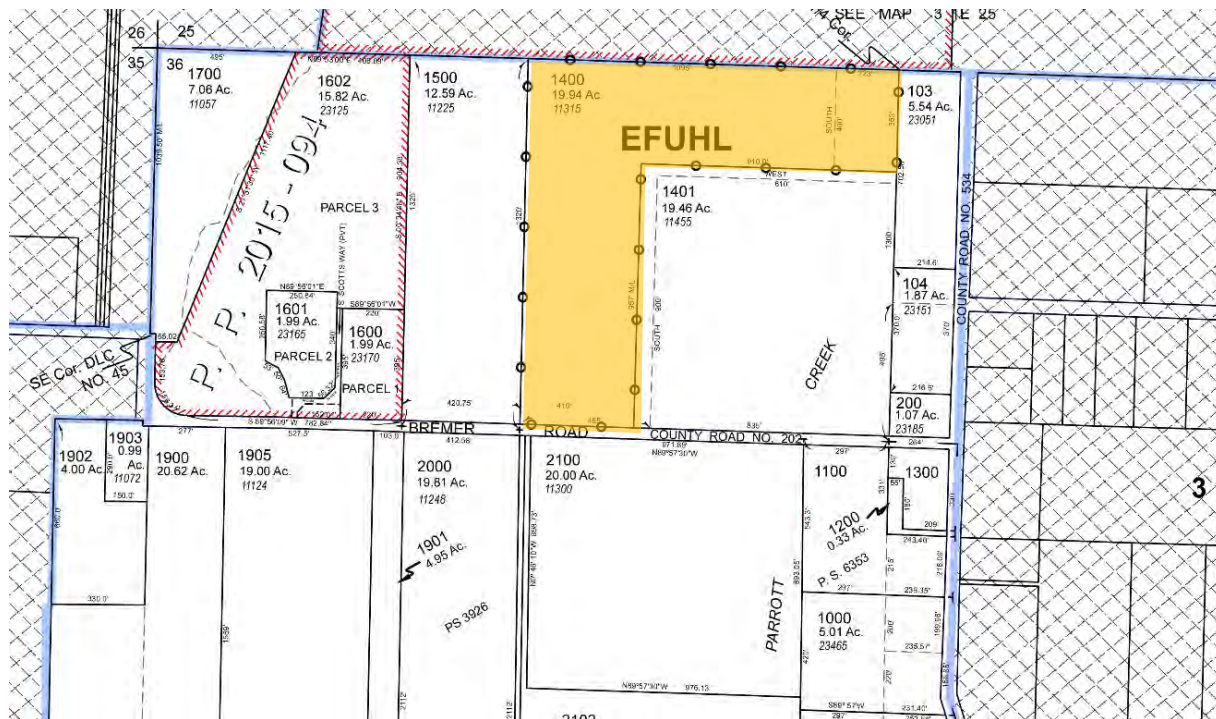
This application includes a proposal to remove the Historic Landmark (HL) zoning overlay on the property located at 11315 S Bremer Rd. due to the fact that the resource no longer exists on the property.

In June of 1993, Clackamas County designated the Samuel & Elizabeth Califf Watertower (SHPO#1103) as a Historic Landmark (HL) and applied the HL overlay zone to the site. The Califf Watertower was constructed circa 1880, was designed in the vernacular style, and was noted to be a rare building type with its unusual three-tier design. Based on the 1984 photo, the watertower appeared in relatively good condition. By the time the Goal 5 analysis was completed in 1993, however, the Califf Watertower was noted to be in “very poor” or “deteriorated” condition and all of the windows had been removed (at some undetermined time). And as illustrated in the photo above, by 2007, the watertower structure had become nearly completely overgrown with a large shrub/tree.

The applicants purchased the property with the Califf Watertower in mid-2017. According to the applicants, at the time of purchase the watertower was *unfortunately nothing more than a partial pile of wisteria covered rubble*. Only two beams from the rubble were in a condition to salvage, which has been done.

It is difficult to ascertain, from aerial photography, when the Califf Watertower collapsed or was removed because of the large growth over the structure. What is certain, from both 2017 and current photography, is that the Califf Watertower no longer exists on the site.

Location Map:



Photographs:

Report Photos



Califf Watertower 1984



Califf Watertower 2007



2017. Applicant's photo (left); property listing on zillow.com (right)



Current. Applicant photo





Responses Requested:

- a. Canby Fire District #62
- b. State Historic Preservation Office (SHPO)
- c. Dept. of Land Conservation and Development
- d. Property Owners within 750'

CPO Recommendation: The subject property is located within boundaries of the Canby Community Planning Organization (CPO), which is currently inactive.

Public Hearings/Meetings: After appropriate notice, a public meeting was held before the Historic Review Board (HRB) on May 9, 2019, for consideration of the proposal. At this meeting, the HRB voted unanimously to recommend approval of the removal of the HL overlay proposed in Z0067-19-HL.

A public hearing held before the Board of County Commissioners on June 19, 2019. 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**

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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 resource on the subject property (the Califf Watertower) no longer exists. 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 Z0067-19-HL 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 an inactive Community Planning Organization (CPO) so no CPO was sent notice. 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 below, the watertower was at one time determined significant by the evaluation criteria (scoring the minimum 40 points); but, as the structure no longer exists, 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 Califf Watertower scored the absolute minimum required (40 points), largely based on its architectural significance. Given that the structure no longer exists, the Board finds it cannot achieve any score under this criterion 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.**