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March 17, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

**A Board Order related to a previously approved
Zone Change Application: File Z0529-21-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 February 9 2021, at which time the BCC voted 4-0, with one member absent, 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 December 16, 2021 a public meeting was held before the Historic Review Board (HRB) to consider the proposal in Z0529-21-Z. At this meeting, the HRB voted to recommend approval of the proposal to apply the HL overlay on the subject property, known in its nomination to the National Register of Historic Places as the John and Elizabeth Kinsman House. The site was determined to be worthy of protection as a Clackamas County Historic Landmark, due to its successful nomination to the National Register of Historic Places.

On January 9, 2022 a public hearing was conducted before the BCC, via Zoom teleconference, to consider a proposal to apply the Historic Landmark (HL) overlay on the subject property located at 17014 SE Oatfield Road. At that hearing, the BCC orally voted 4-0, with one member absent, to approve the application to apply the HL zoning overlay to the site.

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,

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 The Kinsman
Foundation on property described as
T2S R2E Section 18AA, Tax Lot 01900

File No.: Z0529-21-Z

Order No. _____
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This matter coming regularly before the Board of County Commissioners, and it appearing that The Kinsman Foundation, as represented by Sara Bailey, made an application for a zone change to apply the Historic Landmark (HL) zoning overlay designation from an approximately 2.40 acre parcel located at 17014 SE Oatfield Road, on the property described as T2S R2E Section 18AA, Tax Lot 01900.

Whereas, it further appearing that the subject property was successfully nominated to the National Register of Historic Places, known as the John and Elizabeth Kinsman house.

Whereas, it further appearing that after appropriate notice, a public meeting was held before the Historic Review Board on December 16, 2021, to consider the proposal in Z0529-21-Z, and at this meeting, the Historic Review Board voted to recommend approval of the proposal to apply 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 February 9, 2022, at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by the vote of 4-0, with one absence, to approve the proposal to apply 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 apply the Historic Landmark (HL) zoning overlay on the subject site on the basis that the property has successfully been nominated to the National Register of Historic Places and thus meets the relevant criteria for protection as a Clackamas County Historic Landmark. The site measures 2.4-acres area described as T2S R2E Section 18AA, Tax Lot 01900 W.M., and illustrated in Order Exhibit A.
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 B, which finds the application to be in compliance with the applicable criteria.

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

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NOW THEREFORE, the Clackamas County Board of Commissioners do hereby order that the requested Zone Map Amendment is hereby APPROVED, for the area identified in Order Exhibit A, as further described in the *Findings of Fact and Conclusions of Law* document attached hereto and incorporated herein as Order Exhibit B.

DATED this 17th day of March, 2022

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A

File Z0529-21-Z

T2S R2E, Section 18AA, Tax Lot 01900, W.M.

(Highlighted yellow and with situs address 17014 SE Oatfield Road, Milwaukie, Oregon)

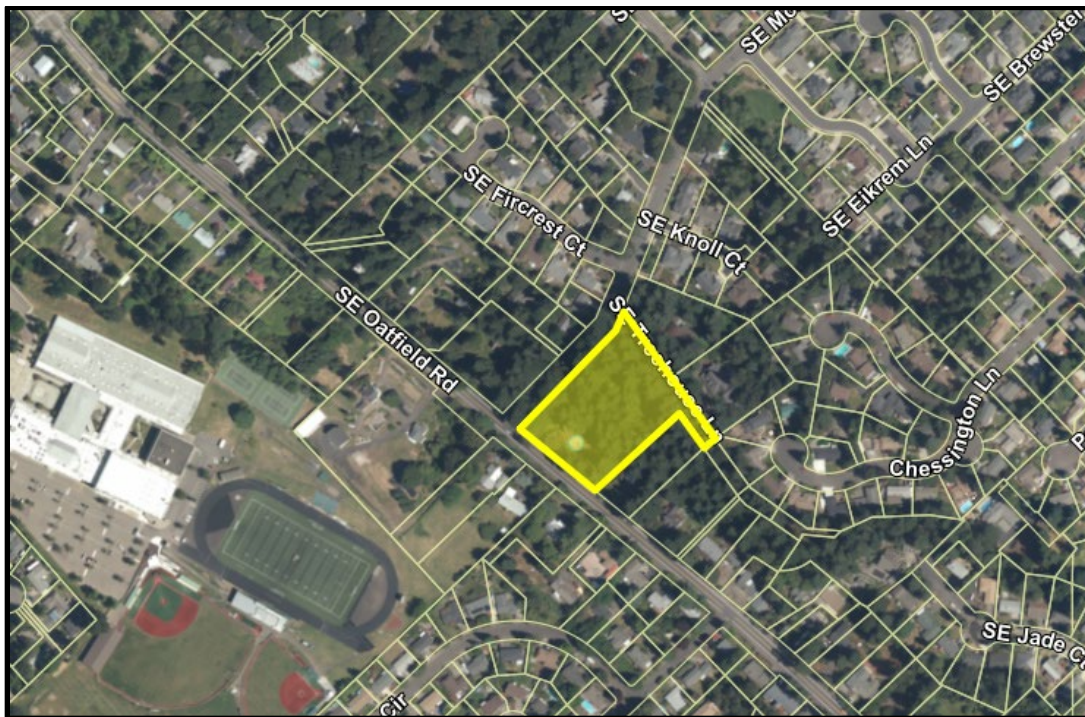
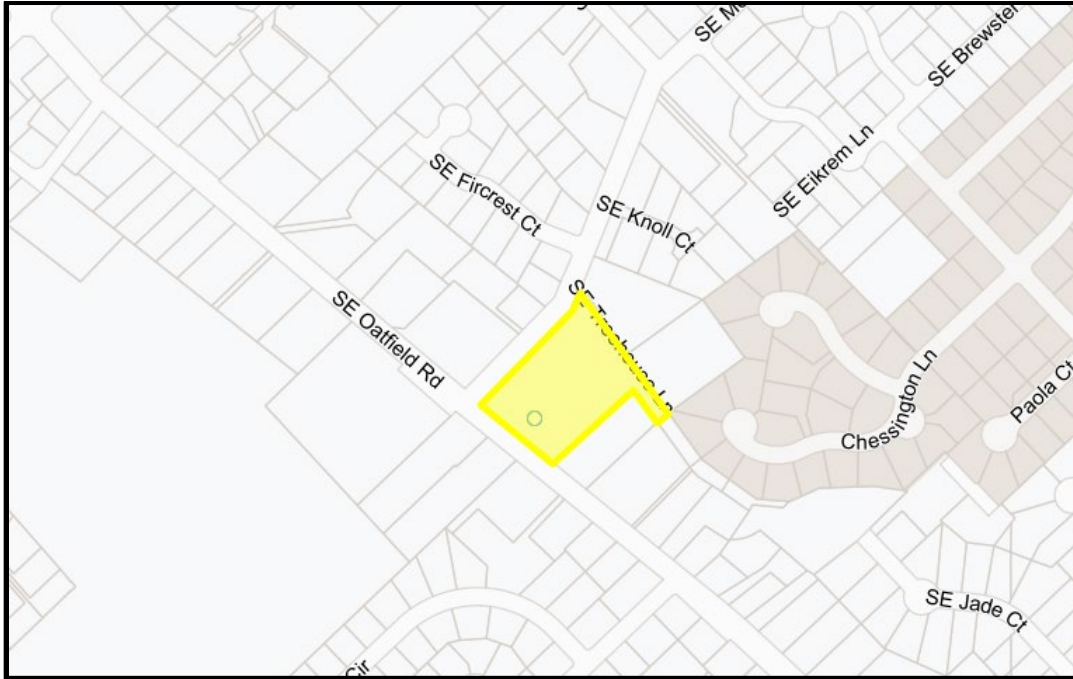




EXHIBIT B
FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
PLANNING FILE NO. Z0529-21-Z:
THE JOHN AND ELIZABETH KINSMAN HOUSE
ZONE CHANGE TO APPLY THE HISTORIC LANDMARK (HL) OVERLY

SECTION 1 - GENERAL INFORMATION

Planning File No.: Z0529-21-Z

Adoption Date: March 17, 2022

Applicant(s): Sarah Bailey, on behalf of The Kinsman Foundation

Owner: The Kinsman Foundation

Proposal(s): Application of Historic Landmark (HL) zoning overlay

Legal Description: T2S R2E Section 18AA, Tax Lot 01900

Site Address: 17014 SE Oatfield Road, Milwaukie, OR

Comprehensive Plan Designation: Low Density Residential (LDR)

Zoning Designation: Urban Low Density Residential Farm (R-8.5)

Total Area Involved: 2.40 acres

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 application of the Historic Landmark (HL) zoning overlay on the property, as proposed in planning file Z0529-21-Z.

SECTION 3 – BACKGROUND INFORMATION

Background:

This application proposed to apply the Historic Landmark (HL) zoning overlay on the property located at 17014 SE Oatfield Road, in light of the fact that the property has successfully been nominated to the National Register of Historic Places.

The John and Elizabeth Kinsman House is a multi-level, irregularly-shaped, wood-framed dwelling located on a large landscaped lot in Clackamas County. The house was designed and built by John Kinsman for his own occupancy in 1963 and exemplifies the contemporary residential style popular during the late-1950s and early 1960s. The house is located within a designed and amazingly intact landscaped setting.

The “Treehouse”, designed by Kinsman and local architect Stuart Mockford, was completed in 1969. The John and Elizabeth Kinsman House remains almost entirely as built and demonstrates exceptionally high integrity, accurately reflecting its significant design as an exemplar of the Contemporary Style.”

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.

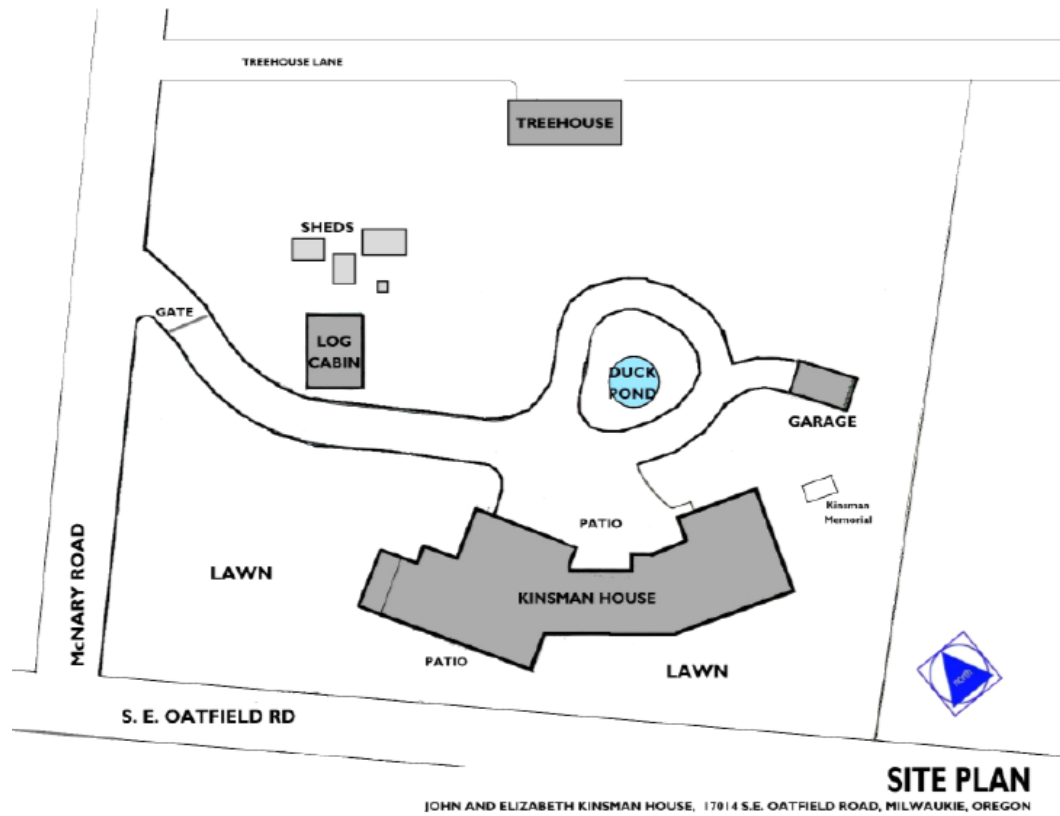
The subject property was successfully listed to the National Register of Historic Places in early 2021 and on that basis eligible for nomination as a Clackamas County Historic Site and protection via the County’s Historic Preservation Overlay zoning. Based on analysis of the ordinance standards, staff recommends application of the overlay zoning to the subject site.

Location Map:



Images:

Site Drawing from National Register Nomination



Current Day Site Photos of Structures and Interiors on Property









Responses Requested:

- a. Community Planning Organization
- b. State Historic Preservation Office (SHPO)
- c. Property Owners within 300'

CPO Recommendation: The subject property is located within boundaries of the Oak Grove Community Council Community Planning Organization (CPO), which was notified of the proposal. The OGCC CPO submitted comments supporting application of the historic overlay.

Public Hearings/Meetings: After appropriate notice, a public meeting was held before the Historic Review Board (HRB) on December 16, 2021, for consideration of the proposal. At this meeting, the HRB voted to recommend approval of the application of the HL overlay proposed in Z0529-21-Z.

A public hearing held before the Board of County Commissioners on February 9, 2021. At this hearing testimony and evidence were presented and the Board made the decision, by the vote of 4-0, with one member absent, to approve the proposal to apply 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 application 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 300 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 historic resources on the subject property (The John and Elizabeth Kinsman House) have been identified as being eligible for Goal 5 protection through a successful nomination to the National Register of Historic Places.

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 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 Z0529-21-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 300 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 Oak Grove 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 identified as historically significant through its successful nomination to the National Register of Historic Places. On the basis of that successful nomination, the HL overlay zone is appropriate for the subject site. The Board finds the proposed application 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.

This site was successfully nominated to the National Register of Historic Places. Based on this successful nomination, the Board finds that the HL designation is appropriate for the subject site. **This criterion is 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 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 application of the HL overlay does not authorize any development outright that is not already allowed under the existing R-8.5 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 application of the HL overlay does not authorize any development that is not already allowed under the existing R8.5 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 application of the HL overlay does not authorize any development that is not already allowed under the existing R8.5 zoning and, as such, would not affect the transportation system. **This criterion is met.**