



OFFICE OF COUNTY COUNSEL

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

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

July 14, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Board Order related to a previously approved
Zone Change Application: File #Z0439-21-Z.**

Total value is \$0. Funding through N/A. County General Funds are not involved.

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 3-1, with one member absent, to approve the application with an added condition, and directed staff to draft the board order and the findings of fact, both of which are included with this report. The BCC adopted the final order and findings on March 17, 2022.</i>
Strategic Plan Alignment	<i>1. Build public trust through good government.</i>
Counsel Review	<i>Date of Counsel Review: 7/6/22 Nate Boderman</i>
Procurement Review	<i>N/A</i>
Contact Person	<i>Nate Boderman, 503-655-8364</i>
Contract No.	<i>None</i>

BACKGROUND:

On November 18, 2022 a public meeting was held before the Historic Review Board (HRB) to consider the proposal in Z0439-21-Z, and at this meeting, the HRB voted to recommend approval of the proposal to remove the HL overlay on the subject property, known in the Clackamas County Historic Inventory as the Christian Muralt Farm (SHPO #1119). 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 February 9, 2022 a public hearing was conducted before the BCC, via Zoom teleconference, to consider the proposal to remove the Historic Landmark (HL) overlay on the subject property located at 20750 S Beavercreek Road. At that hearing, the BCC orally voted 3-1, with one member absent, to approve the following motion: "I move we approve Z0439-21-Z as recommended by staff and the County Historic Review Board with the condition that the property be listed for removal and advertised for a period of 90 days to include a sign to that effect posted on the property." Given the context of the discussion leading to the previously quoted motion, County staff have interpreted this motion to mean an approval of the application to remove the HL zoning overlay, with the condition that the applicant promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local preservation organizations.

At the conclusion of the hearing, the Board 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. The final order and findings were adopted by the Board at the March 17, 2022 Business Meeting.

The applicant submitted evidence to the County on March 9, 2022 verifying that the required sign has been posted on the property near the driveway entrance in a location that is visible from the road and with space to allow a vehicle to idle and view the notice. Staff have confirmed that the sign is still posted onsite and has remained onsite for well over the 90 days originally required. The applicant also submitted a copy of an email demonstrating that information about the property had been emailed to Restore Oregon. The relocation and salvage opportunity associated with this property was promoted in the Oregon City News from 3/16/22-3/23/22 and in The Oregonian from 3/14/22-3/25/22. A record of the inquiries received to date is attached to this report.

The original board order had a proposed effective date of June 15, 2022, 90 days after the approval date, to provide time to those that might be interested in relocation or salvage opportunities to coordinate their efforts. On April 4, 2022, Elizabeth Graser-Lindsey appealed the Board's decision to the Oregon Land Use Board of Appeals. Shortly after, County Counsel's office determined it would be in the County's interest to withdraw the decision for reconsideration, as is permitted by LUBA's rules, in order to address certain state law criteria that were omitted from the original findings, and to generally supplement the findings document to better support the Board's decision. The proposal under consideration here would have the Board re-adopt the order implementing the Board's prior oral decision made at the February 9, 2022 public hearing, along with revised findings supporting the Board's decision.

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

Attachments: Board Order (w/ findings)
Record of inquiries re: relocation and salvage opportunities

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

In the Matter of a Zoning Map
Amendment application from Danielle and
Enoh Man, on property described
As T3S R2E Section 15D, Tax Lot 02200

File No.: Z0439-21-Z

Order No. _____
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This matter coming regularly before the Board of County Commissioners, and it appearing that Danielle and Enoch Man, as represented by AKS Engineering, made an application for a zone change to remove the Historic Landmark (HL) zoning overlay designation from an approximately 56.22 acre parcel located at 20750 S. Beaver Creek Road, on the property described as T3S R2E Section 15D, Tax Lot 02200.

Whereas, it further appearing that, in January of 1991, Clackamas County designated the Christian Muralt Farm (SHPO# 1119) as a Historic Landmark (HL) and applied the HL overlay zone to the parcel.

Whereas, it further appearing that, sometime between 1991 and late 2021 the historic farm house and water tower deteriorated significantly and each suffered partial structural collapse.

Whereas, it further appearing that after appropriate notice, a public meeting was held before the Historic Review Board on November 18, 2021, to consider the proposal in Z0439-21-Z, and at this meeting, the Historic Review Board voted 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 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 3-1, with one absence, to approve the following motion: "I move we approve Z0439-21-Z as recommended by staff and the County Historic Review Board with the condition that the property be listed for removal and advertised for a period of 90 days to include a sign to that effect posted on the property" and that given the context of the discussion leading to the previously quoted motion, the condition is to specifically require that the applicant promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local historic preservation organizations.

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

In the Matter of a Zoning Map
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File No.: Z0439-21-Z

Whereas, it further appearing that on March 17, 2022, the Board adopted an order, along with associated findings, implementing the decision made by the Board at the February 9, 2022 hearing; and

Whereas, it further appearing that the Board's decision was timely appealed to the Oregon Land Use Board of Appeals, and that the County elected to withdraw the decision for reconsideration to supplement certain findings originally adopted by the Board; and

Whereas, it further appearing that the applicant has fulfilled the conditions to promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local historic preservation organizations; and

Whereas, it further appearing that the Board is prepared to readopt its prior approval and to adopt updated findings in support of its decision.

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 Christian Muralt Farm (SHPO #1119) have deteriorated such that the site no longer meets the relevant criteria for protection as a Clackamas County Historic Landmark. The site measures approximately 56.22 acres in area as described as T3S R2E Section 15D, Tax Lot 02200 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.
3. This Board finds that the applicant has fulfilled the conditions of approval to promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local historic preservation organizations.

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

In the Matter of a Zoning Map
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File No.: Z0439-21-Z

NOW THEREFORE, the Clackamas County Board of Commissioners do hereby order that the requested Zone Map Amendment is hereby APPROVED, as identified in Order Exhibit A, and as described in the *Findings of Fact and Conclusions of Law* document attached hereto and incorporated herein as Order Exhibit B, and that the effective date of this order shall be August 4, 2022.

DATED this 14th day of July, 2022

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A

File Z0439-21-Z

T3S R2E, Section 15D, Tax Lot 02200, W.M.

(Highlighted yellow and with situs address 20750 S Beaver Creek Road, Oregon City, Oregon)

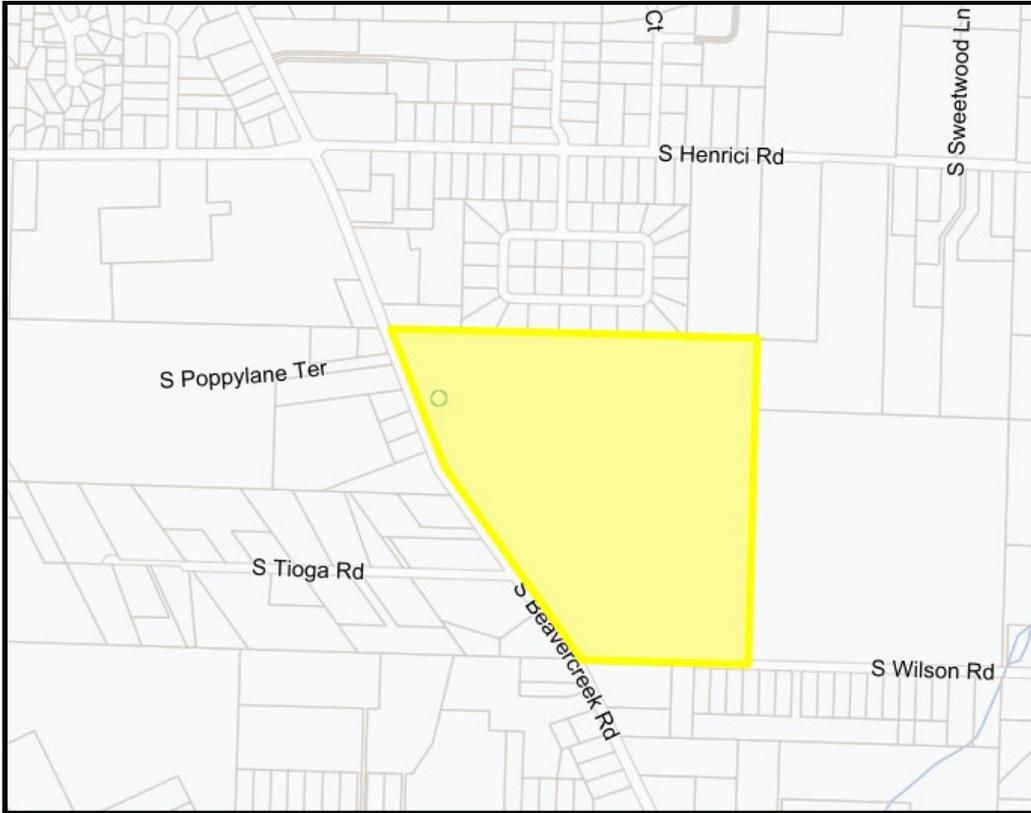




EXHIBIT B

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
PLANNING FILE NO. Z0439-21-Z:**

**CHRISTIAN MURALT FARM
ZONE CHANGE TO REMOVE HISTORIC LANDMARK (HL) OVERLAY**

SECTION 1 - GENERAL INFORMATION

Planning File No.: Z0439-21-Z

Adoption Date: July 14, 2022

Applicant(s): Danielle and Enoh Man, represented by AKS Engineering & Forestry, LLC

Owner: Danielle and Enoh Man

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

Legal Description: T3S R2E Section 15D, Tax Lot 02200

Site Address: 20750 Beaver Creek Road, Oregon City, OR

Comprehensive Plan Designation: Rural (R)

Zoning Designation: Rural Residential Farm/Forest, 5-Acre (RRFF-5)/Historic Landmark Overlay (HL)

Total Area Involved: 56.22 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 removal of the Historic Landmark (HL) zoning overlay on the property, as proposed in planning file Z0439-21-Z, with a condition that the applicant promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local preservation

organizations.

SECTION 3 – BACKGROUND INFORMATION

Background:

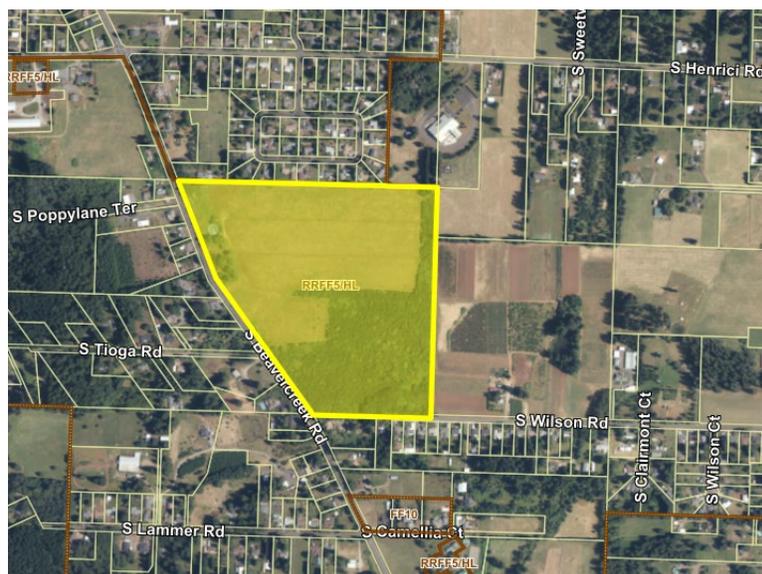
This application proposes to remove the Historic Landmark (HL) zoning overlay on the property located at 20750 S Beaver Creek Road due to the fact that the significant historic elements on the site have been lost to deterioration and modification.

In January of 1991, Clackamas County designated the Christian Muralt Farm (SHPO# 1119) as a Historic Landmark (HL) and applied the HL overlay zone to the site. Case File 01284-90-Z. Review of that decision reveals that the site was designated a historical resource based on the following three bases:

- ❖ the architectural quality of the farm house,
- ❖ the presence of the original water tower on the site, and
- ❖ the fact that it represented an extant collection of agricultural buildings with an association to the patterns of emigration and settlement of the area.

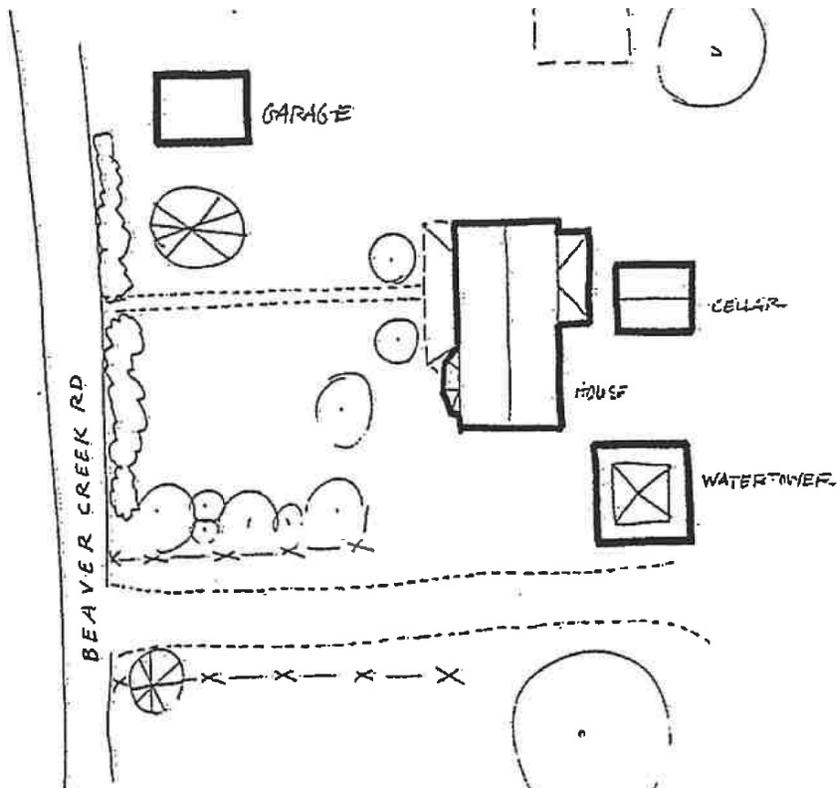
Subsequent to the property being established as a Clackamas County Historic Landmark, the buildings deteriorated significantly, in some cases suffering partial collapse. Though the essential form of the house remains intact, it is now significantly diminished from the point at which it was originally established as a Clackamas County Historic Landmark. Additionally, the original water tower has suffered a partial collapse, losing the upper levels of the structure. Based on the deterioration of the original farmhouse and collapse of the water tower, the Applicants and their consultants suggest that the essential features for which the site was originally nominated are no longer present, and thus request the removal of the Historic Landmark Overlay Zoning from the property.

Location Map:



Images:

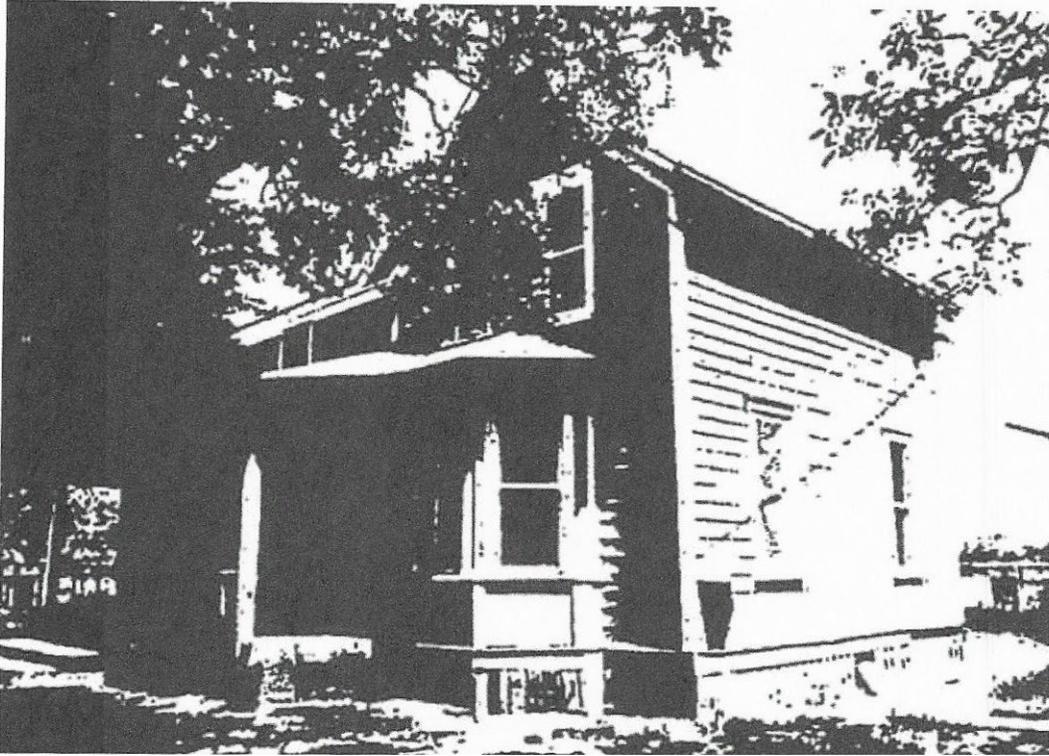
Site Drawing from the Clackamas County Historic Inventory



Aerial Photography, 2020



Muralt Farm House in 1990, with intact windows, porch, porch roof and front steps:



The 1905 Muralt house, lean-to, and water tower currently.



Cellar, Lean-To, House, Water Tower (view to the west)



Water Tower (view to the east)

Site Photographs Exhibit 14 - page 6 of 7



House (view to the east)



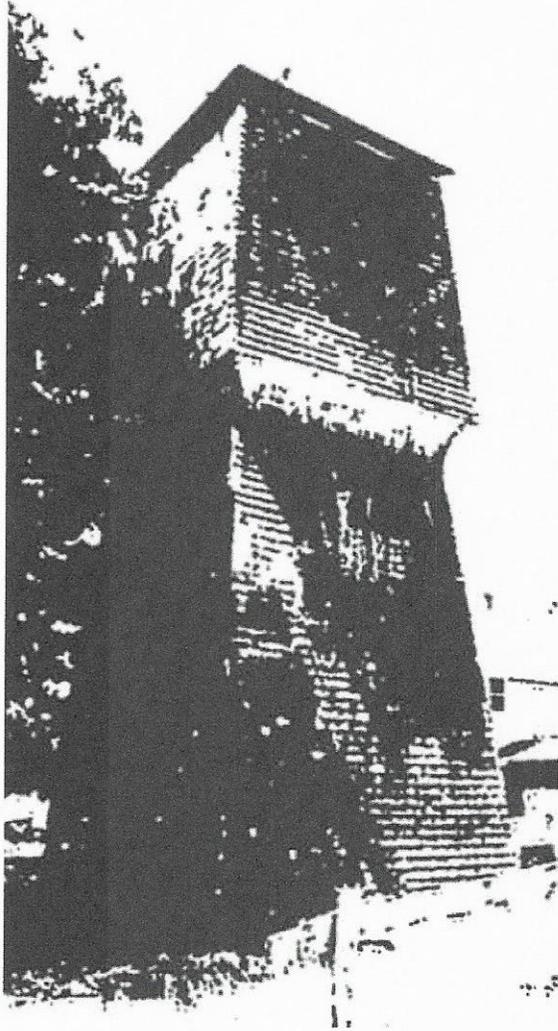
Current Day - Site Photos of Deteriorated Structures on the Property:



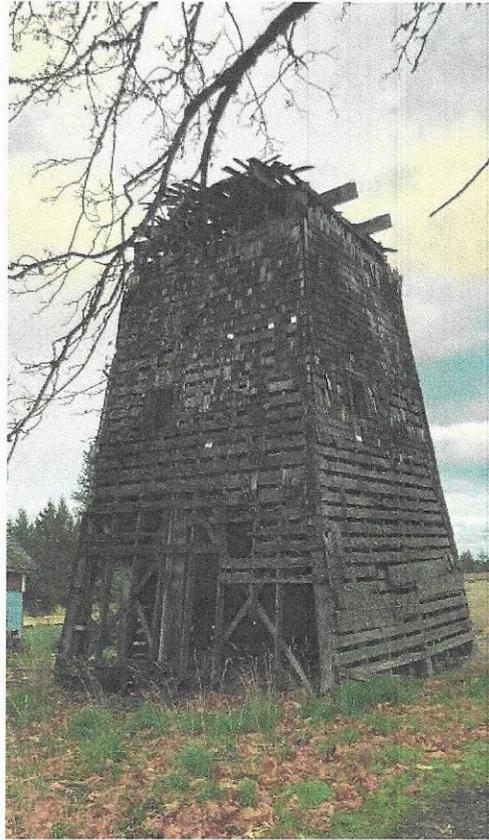
House today (showing broken windows, exposed foundation and collapsed porch blocking the front door)



Water Tower in 1990 with intact third floor, in good repair (left)



Water Tower in 2022, dilapidated with missing third floor and fire damage



Water Tower (rear view) showing the missing third floor which once stored water and housed a windmill-driven pump, today a hollow decrepit shell.



Responses Requested:

- a. Community Planning Organization
- b. State Historic Preservation Office (SHPO)
- c. Property Owners within 750 feet of the subject site.

CPO Response: The subject property is located within boundaries of the Beaver Creek Community Planning Organization (CPO), which was notified of the proposal. The Beaver Creek CPO submitted comments in opposition to the removal of the historic overlay.

Public Hearings/Meetings: After appropriate notice, a public meeting was held before the Historic Review Board (HRB) on November 18, 2021, for consideration of the proposal. At this meeting, the HRB voted to recommend approval of the removal of the HL overlay proposed in Z0439-21-Z.

A duly noticed public hearing was held before the Board of County Commissioners on February 9, 2022. At this hearing, testimony and evidence were presented and the Board made the decision, by the vote of 3-1, with one member absent, to approve the following motion: “I move we approve Z0439-21-Z as recommended by staff and the County Historic Review Board with the condition that the property be listed for removal and advertised for a period of 90 days to include a sign to that effect posted on the property.” Given the context of the discussion leading to the previously quoted motion, it has been interpreted to be an approval of the application to remove the HL zoning overlay, with the specific requirement that the applicant promote the structures to the public for relocation or salvage by posting a sign on the property for not less than 90 days, by advertising the structures in a local newspaper and a regional newspaper, and by providing direct notice to local preservation organizations.

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.

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.

This County proceeding is authorized pursuant to Oregon law, which states:

OAR 660-023-0200(9)(b)

Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.

(A) The resource has lost the qualities for which it was originally recognized;

(B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;...

The Board finds that both the criteria in paragraphs (A) and (B) are met here. The Board finds the Muralt Farm has lost the qualities for which it was originally recognized. The house has been altered from its original 1905 form and seriously deteriorated in condition. In addition, it is clear from the record that the water tower was the main focus of the 1990 designation, when the site barely accumulated the minimum number of points necessary for a historical listing (41 points out of 106, with 40 being the minimum score). That 1990 report concludes: “The Muralt Farm is significant as a rare example of a farm complex which includes a water tower.” The chair of the Historic Review Board, local architect Amanda Gresen, repeatedly stated her belief that the intact water tower was the primary reason the site was designated a Goal 5 resource in 1990 (November 18, 2021 public meeting at 1.48.50 and 1.50.00).

The 1990 report supports this view. Those findings stated:

“The Muralt water tower is the most intact in this area. Two others are also candidate Historic Landmarks (Morehouse – 1915 and Scanlon-Vorpahl – 1920). The fourth is seriously deteriorated. These water towers were originally driven by windmills, none of which stand today. They operated on a system of gravity (the windmill pumped water into the upper storage tank and water flowed out for use by gravity.”

Unfortunately, there is no longer a “farm complex” and the water tower is a water tower no more. The operative parts of the water tower, the tank and windmill, are missing, as is the entire third floor. The tower has deteriorated “almost to the point of collapse.” See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. Many of the components of the “farm complex,” such as the barn and garage are now missing or deteriorated beyond recognition. The front porch is collapsed, and the house is deteriorated and open to the elements, with most windows broken and the front door inaccessible). Clackamas County criteria, such as ZDO Section 707.02(B)(1)(a) “Architectural Significance - exceptional example” and 707.02(B)(1)(d) “(“Architectural Significance – retaining original design features, material, & character” encompass these same concepts found in OAR 660-023-0200(9)(b)(A) and are discussed in more detail below.

In addition, the Board finds the Muralt Farm no longer satisfies the criteria for recognition as a historic resource, due to additional information regarding the deterioration of the site. Clackamas County criteria, such as ZDO Section 707.02(B)(1)(a) “Architectural Significance - exceptional example” and 707.02(B)(1)(d) “(“Architectural Significance – retaining original design features, material, & character” encompass these same concepts found in OAR 660-023-0200(9)(b)(B) and are discussed in more detail below.

Each of the above criteria represent an independent and stand-alone basis for de-listing the property pursuant to OAR 660-023-0200(9)(b). Staff cited this specific Administrative Rule as a justification for de-listing the property during the November 18, 2021 Historic Review Board hearing (statements of Senior Planner Anthony Riederer at minute 33.30-35.00).

State law offers some guidance as to suitable criteria for evaluating whether a property should qualify as a significant historic resource:

OAR 660-023-0200(5)

Evaluating and Determining Significance. After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to OAR 660-023-0030(4) and this section.

(a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:

(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;

(B) Significant association with the lives of persons significant to local, regional, state, or national history;

(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;

(D) A high likelihood that, if preserved, would yield information important in prehistory or history;

(E) Relevance within the local historic context and priorities described in the historic preservation plan.

(b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.

The Clackamas County criteria closely follow these suggested state guidelines, and are considerably more detailed. For that reason, these findings shall address and analyze the more detailed County criteria, rather than the more general State guidelines they encompass and implement.

In order for a site to be designated as “significant” and zoned with the Historic Landmark (HL) overlay, it must be evaluated and scored against the specific architectural, environmental and historic association criteria found in Section 707.02(B) of the Zoning & Development Ordinance (ZDO). The maximum number of points available is 106.

The minimum threshold necessary to qualify for designation as a Historic Landmark is 40 points on this scale. When scored in the original 1990 nomination, the property scored just above the threshold at 41 points.

A review of the current state of the site by Planning Staff found that, evaluated today, the site would score 32 points on that scale. Given that the site no longer achieves the score necessary to sustain Historic Landmark status, Staff recommended, and the Historic Review Board agreed, that the HL overlay zone is no longer appropriate for the subject site.

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 Christian Muralt 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 Z0439-21-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 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 Beavercreek Community Planning Organization (CPO), which was notified of the proposal. A duly noticed public meeting was held before the Historic Review Board (HRB) on November 18, 2021 and a public hearing was held before the Board of County Commissioners (BCC) on February 9, 2022 to consider the proposed amendment. Proponents and opponents presented evidence and argument at both public hearings.

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.

As discussed in the Fact section, *supra*, Clackamas County designated the Christian Muralt Farm (SHPO# 1119) as a Historic Landmark (HL) and applied the HL overlay zone to the site in January of 1991. The site was designated on the basis of the architectural quality of the farmhouse, the presence of the original water tower on the site and the fact that it represented an extant collection of agricultural buildings with an association to the patterns of emigration and settlement of the area.

Subsequent to the property being established as a Clackamas County Historic Landmark, the buildings deteriorated significantly, in some cases suffering partial collapse.

At the time of its original designation as a Historic Landmark, the Christian Muralt Farm scored above the minimum required (40 points), largely based on its intact water tower and the architectural significance of the home. Given the state of deterioration of the home and the water tower on the site, the Board finds it cannot achieve the necessary 40 points and the HL designation is no longer appropriate for the subject site. The photographs included in these Findings and substantial evidence in the record as a whole detail the degeneration of this site.

This criterion is met inasmuch as it points to delisting the property.

- 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.***

Board Finding: 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 RRF-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 removal of the HL overlay does not authorize any development that is not already allowed under the existing RRF-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 removal of the HL overlay does not authorize any development that is not already allowed under the existing RRF-5 zoning and, as such, would not affect the transportation system.

This criterion is met.

Applicable Criteria And Specific Findings: ZDO 707.06(A)(1) and ZDO 707.02(B) provide the criteria used to determine which properties in the county should have the Historic Preservation Overlay zone applied to them. Though generally phrased in the affirmative, these same standards can be used to determine if a property no longer qualifies for the protection and additional rights provided by the Historic Preservation Overlay zone. Section 1307 provides the process by which the zoning map is amended.

Section 707.06(A)(1) – Designation and Zoning:

Comprehensive Plan designation and zoning of a Historic Landmark, Historic District, or Historic Corridor shall be subject to the procedures identified in Section 1307 for Comprehensive Plan amendments and zone changes, respectively.

In addition, The Historic Review Board shall evaluate proposed designation and zoning of a Historic Landmark, Historic District, or Historic Corridor and shall make a recommendation to the Board of County Commissioners.

Board Finding: The standards for designation as a Historic Landmark are analyzed in the following section, were considered by the Historic Review Board, and they made a recommendation to the Board of County Commissioners to remove the historic designation.

Section 707.02(B) – Historic Landmark

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 (out of a possible 106) under the following criteria to be considered for Historic Landmark status:

At the outset, it is important to note that the subject property only garnered 41 points in 1990. Given that (1) the condition of the structures on the property have deteriorated since the time of initial listing, (2) no attempt has been made to restore the structures since the time of initial listing or otherwise take action that would improve the property's score, it stands to reason that the score will have gone down since 1991, not up. This is particularly important in this case, since even as little as a two-point drop in the overall score is grounds for delisting the subject property.

Many of the arguments raised by Elizabeth Graser-Lindsey and other opponents are based on disagreement with the low, barely qualifying score given to this site in 1990 (41 points, with 40 being the minimum qualifying score). In sum, it appears the opponents feel the property should have been scored much higher in 1990, so that even with the loss of a few points after thirty years of neglect, the property would still qualify with 40 or more points today. Indeed, Ms. Graser- Lindsay suggests a 2022 total score of 65 points, which exceeds the 1990 score by a considerable margin. Her recommended scoring is *more than double* the score recommended by Staff and the 2021 Historic Review Board after considering all the evidence in the record.

The Board does not believe it appropriate to use this application as a forum for revisiting the 1990 listing decision. To the extent that the opponents' amount to a challenge to the 1990 score amounts, it would constitute an impermissible collateral attack on the County's three-decades-old decision. If the opponents were unhappy with the 1990 score, the time to challenge it would have been thirty years ago. Such a challenge cannot be entertained today. *Doney v. Clatsop County*, 142 Or. App. 497, 502, 921 P.2d 1346, 1348 (1996). *See also City of Oregon City v. Mill-Maple Properties, Inc.*, 98 Or. App. 238, 779 P.2d 172 (1989); *Campbell v. Bd. of County Commissioners*, 107 Or. App. 611, 813 P.2d 1074 (1991).

Even if the Opponents' arguments reassessing the 1990 scores does not constitute a collateral attack on that decision, the Board has carefully evaluated those scores based on this new record, and finds that Elizabeth Graser-Lindsey's 65-point score is not credible in light of the evidence in the whole record. The reasoning supporting this conclusion is discussed below.

The table below shows the various point values assigned by the County in 1990, the points requested by the Applicant, the current recommendations by County staff, and the scores suggested by opponent Elizabeth Graser-Lindsey. Each criterion is discussed in turn.

Criterion	Architectural Significance					Environmental Significance				Historical Significance				Total
	A	B	C	D	E	A	B	C	D	A	B	C	D	
Maximum	10	4	4	7	10	10	4	10	7	10	10	10	10	106
1990 HRB	3	2	1	5	5	5	3	7	5	0	0	5	0	41
Applicant	2	0	0	3	3	0	1	2	1	0	0	1	0	13

Staff/BoC	2	2	1	4	5	3	2	4	4	0	0	5	0	32
Opponent	5	2	2	5	7	7	4	7	6	10	0	5	5	65

As discussed above, the Board of Commissioners agrees with staff’s suggested scoring.

1. Architectural Significance

a. It is an early (50 years or older), or exceptional, example of a particular architectural style, building type, or convention. (up to 10 points)

Board Finding: This criterion focuses on the structures on the property under consideration. It seeks to assign high scores to either “early” or “exceptional” examples of a particular architectural style, building type, or convention. No party suggests that the structures in question on the subject property, which were built in or around 1905, are of an “early” design. For this reason, the Board focuses on whether the structure is “exceptional.”

The term exceptional is not defined in the code. Therefore, the board relies on the dictionary definition of the term. *Webster's Third New International Dictionary Unabridged*, p. 791 (2002) defines “exceptional” as meaning: “1. Forming an exception: being out of the ordinary: UNCOMMON, RARE...2. Better than average: SUPERIOR”. As noted in the dictionary, the term “exceptional” has two components, “uniqueness / rarity” and “superiority” which the Board equates to condition.

As discussed below, the Board finds that 1990 Historic Review Board determined that the structures on the property were never particularly exceptional.

The primary building on the site, which is a typical, though not exceptional, example of vernacular style architecture. Vernacular architecture can be defined as a type of local or regional construction, using traditional materials and resources from the area where the building is located. Consequently, this architecture is closely related to its context and is aware of the specific geographic features and cultural aspects of its surroundings, being strongly influenced by them. Unfortunately, deterioration and modification over time have diminished the Muralt Farm’s composition, detailing, and craftsmanship. Any early iterations of the rake, corner board, and window detailing were long ago removed and/or replaced with dull modern elements. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. That said, the house was once well-built, and continues to present the essential form of a vernacular style dwelling with little detailing.

In 1990, the Historic Review Board assigned three (3) out of a possible ten points to this criterion. However, since that time, the structures on the property have deteriorated significantly. In light of that deterioration, staff now recommends that the Board assign 2 points to this criterion in its current staff report. The Applicant also suggests a rating of 2 points for the same reasons.

On the other hand, opponent Elizabeth Graser-Lindsey suggested a rating of 5 points, which represents an increased score since 1990. Ms. Graser-Lindsey repeatedly states that the Muralt farms “has become a more rare and valuable as the years have passed.” She argues that the

dwelling was 85 years old at the time of listing, and the dwelling is now 115 years old. However, the Board rejects any interpretation of ZDO 707.02(B)(1)(a) that is premised on the idea that the mere passage of time makes the particular architectural style, building type, or convention more “exceptional,” and therefore, more deserving of a higher score. Those arguments premised on the relative scarcity of properties, building types, designs, materials or methods of construction are evaluated under separate criteria.

Regarding the house, opponent Elizabeth Graser-Lindsey suggests that the Applicant misconstrues the meaning of vernacular architecture. She quotes extensively from Robert Roscoe's 2018 article entitled “Architectural Style, High Style vs. Vernacular,” wherein Mr. Roscoe explains:

Almost all architectural discourse in academic publications pay attention to high style architecture. These buildings exemplify architectural features that are consistent throughout their surfaces of attributes, particularly ornament, identified with a defined architectural style.

By contrast, buildings of typically straightforward architectural design, which rely much less on use of ornament and tend to identify with the building’s purpose or function, are commonly called ‘vernacular.’ Whereas high style architectural structures definitively belong to a style, vernacular buildings typically belong to type instead of style. Their identifiable architectural elements often develop from tradition-based uses and construction methods, occasionally exhibiting elements of commonly known architectural styles. Vernacular buildings have straightforward design, with style features applied to specific areas, so designed to attract the eye, that define its architectural presence. Vernacular architecture is a response to adapting style elements to common buildings in ways that provide a more or less modest architectural expression.

The term vernacular as a particular pattern of buildings coming from local tradition that was, and to a limited extent still is, a practice handed down throughout generations of builders and carpenters, the more experienced of them becoming master builders. They communicate what their purposes and fabrication can tell us about their function and place in our working and cultural environment, why they were created in the traditional patterns they were built with, occasionally with minor reference to their historical and social origins.

Ms. Graser-Lindsey points out that the dwelling features a “bay window.” However, the only decorative feature called out by the 1990 Inventory Report was the “ornate paneled and glazed door.”

Ms. Graser-Lindsey cites to the John McLoughlin house as a “1846 example of historic house

that is relatively plain in appearance.” The fact that a “plain in appearance” dwelling such as the John McLoughlin house could qualify as a national historic site proves little, as there are many different reasons why a house might qualify for historic preservation aside from its architecture.

Thus, in light of all of the evidence in the record, the Board finds that a score of “2” out of 10 possible points is an appropriate rating. The evidence of the decrepitude of this site, including the pictures included in the record and the narrative provided by the applicant’s consultant (AKS), is substantial.

b. It possesses a high quality of composition, detailing, and craftsmanship. (up to 4 points)

Board Finding: This criterion deals with the qualities of the structures on the site. Some of the key terms require definition:

- ❖ *Webster's Third New International Dictionary Unabridged* (2002) defines “composition” as meaning: “the formation of a whole, esp. by different things being put together” (p. 466).
- ❖ *Webster's Third New International Dictionary Unabridged* (2002) defines “detailing” as meaning: “the smaller elements of design and finish (as on garments or building interiors)” (p. 616).
- ❖ *Webster's Third New International Dictionary Unabridged* (2002) defines “craftsmanship” as meaning: “work of consistently high quality” (p. 528).

In 1990, the Historic Review Board assigned two (2) out of a possible four points to this criterion. However, the composition of the site has been reduced somewhat, as some of the elements (e.g. the barn, garage, porch, and the operative parts of the water tower) no longer exist or have deteriorated significantly. The Muralt Farm structures were not noted as having much in the way of detailing in 1990, and that condition has not changed. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. Finally, the current record relies on scanned, grainy black-and-white photographs, and does not appear to provide much information about the craftsmanship of the original structures. The Board believe a middle-of the road score remains appropriate.

The Applicant suggested a rating of 0 points. Opponent Elizabeth Graser-Lindsey suggested a rating of 2 points. She argues that the dwelling was 85 years old at the time of listing, and the dwelling is now 115 years old. The Board disagrees with the notion that the mere passage of time should alter the point value assigned to quality of composition, detailing, and craftsmanship. However, the 1990 Historic Review Board assigned 2 points, and the Board agrees with Staff and Ms. Graser-Lindsey that no changes merit altering that 1990 determination and finds 2 is an appropriate rating.

c. It is a good, or early, example of a particular material or method of construction. (up to 4 points)

Board Finding: This criterion concerns itself with construction methods and materials. As an example, a site might score highly if it is a prime example of how a certain type of lumber, brick or rock was used in architecture.

Though the site in question is an example of vernacular architecture, there is nothing particularly noteworthy or unique about the method of construction or materials used in the construction of the main structures. The dwelling is of a common type, plain and lacking any significant details or ornamentation. The record does not indicate any particular material or method of construction was used in any manner which suggests significance. Nor is the house of an early type, as it was built in 1905, decades after similar houses were built prior to the Civil War.

The water tower may have once been a good example of a windmill driven pump and water storage facility, but those functional elements have long since disappeared, along with the entire third floor.

In 1990, the Historic Review Board assigned one point out of a possible four points to this criterion. In this proceeding, staff recommends that the Board keep the same one point score point.

The Applicant, on the other hand, suggests a rating of 0 points, stating that the severe deterioration of the structures means they are no longer good examples of their type.

Opponent Elizabeth Graser-Lindsey suggested a rating of 2 points, arguing “[a]s time has passed, its unique value – due to its good quality and early period -- has increased.” The Board finds that mere passage of time does not increase the value of a method of construction, nor the value of materials used in that construction. The County Historic Review Board assigned a 1990 score of 1 point, and the Board sees no reason to alter that rating. The types of materials used have not changed. The method of construction has also not changed. Thus, no changes merit altering that 1990 determination and the Board rejects both the Applicant’s rationale for downgrading the score as well as the Opponent’s reasoning for upgrading the score.

d. It retains, with little or no change, its original design features, materials, and character. (up to 7 points)

Board Finding: This criterion seeks to assign higher scores to properties which “retain, with little or no change,” its original design features, materials, and character. “Character” is not defined in the Code, so the Board uses the dictionary definition:

Webster's Third New International Dictionary Unabridged (2002) defines “character” as including the meanings: “... One of the essentials of structure, form, materials or function...outward and visible quality or trait” (p. 376).

The Board interprets this criterion in a manner that awards less points to structures that have lost their original design features/or and functionality, consistent with this dictionary definition. In addition, the Board interprets this criterion in a manner that awards less points to structures where the original materials used in the construction show substantial deterioration, rotting, or destruction.

In 1990, the Historic Review Board assigned a relatively high five (5) out of a possible seven (7) points to this criterion. However, the deterioration to the water tower since 1990 is significant. The opponents admit the third story of the water tower, and its operative elements (windmill, pump, tank) are now gone. Thus, its function (the pumping and storing of water) no longer operates. Comparison of then and now photographs reveal that the wood that makes up the water tower has been destroyed from dry rot and exposure to the elements. As a result, the water tower has lost the majority of its former character. Staff therefore assigned a rating of 4 points for this criterion, a decrease of a single point compared to the value assigned in 1990.

The Applicant suggested a rating of 3 points due to the extensive deterioration and modification of the structures since their initial construction in 1905, and the loss of functionality of the structures that do still exist. With regard to the farmhouse, however, while the original building form is apparent, virtually every element of the façade (siding, windows, doors, trim, etc.) have deteriorated or been modified. The main function of the house (shelter, meaning keeping the weather out) no longer operates, as all the windows are smashed, so the house is open to ingress of the elements and vermin. The structure has been considerably altered and diminished from the point at which it was originally nominated. The porch, siding, and framework of the home are substandard. Access to the front door is not possible as the porch has caved in and portions have been removed. The barn and garage no longer exist, and only dilapidated remnants of the lean-to remain. There is graffiti defacing the buildings, and unsightly debris litters the site. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. The Applicants' consultants from AKS Engineering & Forestry LLC stated the house is "hazardous and lacks structural integrity." "Demolition and/or serious structural repair would be necessary to bring the home and water tower into a non-hazardous condition (and may not even be possible)," stated the Applicants' engineers.

On the other hand, opponent Elizabeth Graser-Lindsey suggested a rating of 5 points, asserting the house "looks to be in remarkably good repair". Ms. Graser-Lindsey re-asserted this position several times during her testimony before Historic Review Board (minutes 35.10 to 36.00). The basis for her evaluation is unclear, as the record indicates she made her examination of the structures' condition from some distance, in the public right-of-way.

Considering this widely divergent evaluation of the structures' condition, the Board finds the Applicants' consultants more credible due to their professional expertise and the fact they conducted a thorough on-site analysis of the property and structures.

The County assigned five (5) points for this criterion in 1990, and the photographs in the record and the evaluation by the applicant's consultants confirm that thirty-two years of wear, weathering, and neglect have obviously reduced the condition of the site for the worse. The Board sympathizes with those who wish to preserve local history, and would prefer if private property owners maintained older structures. The Board is bound by the terms of the ZDO, however. Thus, the Board finds that a one-point reduction, from five (5) to four (4), is appropriate in this case.

The Board finds that this one-point reduction is warranted based on the advanced state of decay of the original materials of the water tower, the farmhouse and other structures onsite.

e. It is the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. (up to 10 points)

Board Finding: The Board interprets this criterion to focus on the property as a whole. That includes the buildings and the land. The Muralt Farm land is 56.22 acres in size and possesses no terrain features of any note.

The buildings on the property are an example of vernacular architecture. It is a common style, popular from the 1870s to the First World War, and there are quite a few of these houses remaining in Clackamas County. See original Historic Review Board decision. There is nothing particularly unusual nor interesting about the type, material, or method of construction.

The water tower is one of three in the immediate Beaver Creek area, and there are several more in the County. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. The operative features that once made the water tower worthy of note (the windmill, pump and water storage cask) are long since gone, and what remains is accurately characterized as a derelict structure. There is nothing particularly unusual nor interesting about the type, material, or method of construction, or of the remaining structure. It is slightly more rare than it once was, due to the fact that other water towers have been destroyed. However, the condition of this water tower is such that little of its architectural value remains. Thus, the rarity and condition aspects of the tower tend to offset each other.

The other features of the farm complex (e.g. barn, garage, covered porch) no longer exist or have collapsed. See pictures in the record and the statement of the applicant's consultant (AKS).

The 1990 Historic Review Board assigned 5 points, and no changes merit altering that 1990 determination. Thus, the Board finds 5 is an appropriate rating. Staff recommends retaining that same rating of 5 points.

The Applicant suggested a rating of 3 points, pointing out that there are multiple other examples of vernacular farmhouses, and three surviving water towers, in the Beaver Creek area alone.

Opponent Elizabeth Graser-Lindsey suggested a new rating of 7 points. She focused solely on the buildings, stated the "Muralt Farm House is the only remaining farm house of Vernacular style in the area and only house of the earlier period." This is at odds with the 1990 County Historic Review Board report: "the Vernacular style continued to be the most popular style in the Oregon City-Beaver Creek area, between 1883 and 1913," It is also at odds the 2020 Staff Recommendation: "This building is an example of vernacular architecture. That being said, there are a number of this type in Clackamas County. It is fair to say that it is one of a few of the style. There is nothing particularly unique about the type, material, or method of construction."

The Board finds that the 1990 score of 5 points should be retained.

The Board's assigned total for this "Architectural Significance" section is 14 points. This score represents a two (2) point drop since the time of the 1990 listing decision. This reduction is justified due to advanced state of deterioration and the loss of several structures on the property.

2. Environmental Significance

a. It is a conspicuous visual landmark in the neighborhood or community. (up to 10 points)

Board Finding: This criterion requires the Board to consider whether this site is a highly visible and well-known local feature. *Webster's Third New International Dictionary Unabridged* (2002) defines “conspicuous” as meaning: “1. Obvious to eye or mind: plainly visible... attracting or tending to attract attention” (p. 485). Thus, a conspicuous landmark should have both the qualities of being easily and highly visible to the travelling public as well as being visually attractive. The Board finds the Muralt Farm site lacks both these qualities.

First, the structures are not easily visible. Though the water tower may have served as a reference point, it has partially collapsed and deteriorated such that any such function is significantly impaired, as it is much shorter after the loss of the third floor. Mature trees and untrimmed vegetation along the site’s frontage on Beaver Creek Road substantially obscure the house and collapsed water tower from public view. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. The speed limit on that road is 45 m.p.h, so passing motorists are unlikely to get so much as a glimpse of the dilapidated structures through the gaps in the trees and bushes as they zoom past. Rec. 190.

Second, the structures are no longer visually attractive. The house is a hollowed out, decrepit shell surrounded by junk and debris, spattered with graffiti. The water tower is a looming, derelict eyesore, “seriously deteriorated to the point it is not safe to enter, or stand next to.” See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. The chair of the Board of Commissioners echoed these sentiments during the public hearing, stating the site is a “eyesore” with buildings that are “falling down,” and it might attract trespassers. Public hearing, February 9, 2022, at minute 49.00-50.00.

In 1990, the Historic Review Board assigned five (5) point out of a possible ten (10) points to this criterion.

Staff suggests a new rating of 3 points, due to low visibility and the deterioration and collapse of parts of the structures. Several of the farm complex features (*e.g.* the windmill, pump and water storage cask, barn, garage, covered porch) no longer exist.

Opponent Elizabeth Graser-Lindsey suggested a new higher rating of 7 points, asserting the water tower is a “well known” and “conspicuous” landmark. “As a person enters the Hamlet of Beaver Creek, the Muralt farm is the first major farm and visual clue that one has entered our rural, agriculturally-oriented community. (The farm at the corner of Beaver Creek Rd. and Henrici Rd. is below the high bank along Beaver Creek Rd. obscuring it from view). Many of us have taken note of it, looking specifically at it on each trip in and out of the area. While the house, though not the farm expanse, is harder to see due to the trees when traveling south., it is easy to see when heading north.”

This directly contradicts the testimony of the Applicants’ consultants from AKS Engineering and Forestry LLC, who requested a rating of zero points after conducting an extensive site study and determined “these buildings are not discernible or evident from the public right of way, as shown in Figure 3 (below).” The driveway to the Muralt Farm (right) and the tall foliage lining Beaver Creek Road are clearly visible in this photograph.



Figure 3: View of Structures from Beaver Creek Road (view to the north)

The aerial photograph on page 4 of these Findings also confirms that the Muralt Farm structures are obscured from public view by trees and foliage, making them difficult to see.

Based on substantial evidence in the Record, the Board finds the Applicants’ consultants more credible than the opponent’s testimony. Thirty-two years of wear, weathering, and neglect have obviously reduced the condition of the water tower, which is today much shorter, harder to see from the road, and much more decrepit than it was in 1990. Furthermore, it is difficult to consider something a “well-known” local landmark when it is not highly visible invisible to the traveling public.

Thus, the Board agrees with County Staff that a two (2) point reduction (from five points to three points) is appropriate given the evidence in the record.

b. It is well-located considering the current land use surrounding the property, which contributes to the integrity of the pertinent historic period. (up to 4 points)

Board Finding: This criterion requires the Board to consider the surrounding land uses and determine it is “well-located.” Under this criterion, a change in the use of surrounding land can have an effect on the environmental significance of a historic property. As land uses in the area have shifted away from the model of family-run farms, so too have the land uses in the area. This site, though located in the rural area, has been diminished by the nearby development of tract-style single family residential neighborhoods and other homes of a modern era.

In 1990, the Historical Review Board awarded the property five (5) points out of a possible ten (10) points on the basis of this criterion. Staff recommended downgrading the score to two (2)

points. The Applicant suggested a rating of 1 point, asserting the site is today out of place in its increasingly residential neighborhood. Opponent Elizabeth Graser-Lindsey suggested a maximum rating of 4 points, which seems to concede the effects of nearby development on this property. Nonetheless, Elizabeth Graser-Lindsey asserts that the water tower continues to serve as a welcoming marker to the Beavercreek area.

The subject site is today surrounded by residential single-family housing in all directions, with Albeke Farms to the east. North of the site, lots in the Wilshire Meadows subdivision average ½ acre. Lots to the south and west range from .4 acre to 3 acres. The site is today surrounded by low-density suburban housing residential development, which is clearly at odds with the early 1900s rural, large acreage character when the house and outbuildings were constructed in 1905. Staff's position represents a middle ground between the applicant and the opponents. On balance, the Board finds that staff's middle-ground position is correct, and that that a score of two (2) is an appropriate rating given the changes in the area since 1990.

c. It consists of a grouping of interrelated elements including historic structures, plant materials and landscapes, viewsheds and natural features. (up to 10 points)

Board Finding: This criterion seeks to assign higher scores to sites that have multiple intact historic features. The 1990 Historic Review Board assigned seven (7) points for the grouping of structures, which consisted of a solid and livable house, an intact water tower, a lean-to cellar, a covered porch, a working garage, and a large barn.

In this proceeding, it was revealed that each of the interrelated buildings mentioned in the original listing have significantly deteriorated or partially collapsed since the time the site was originally evaluated. In particular, the water tower, which was a critical element of the original listing, has deteriorated to the point where it no longer serves as an “interrelated element” of the overall site. There are no notable remaining landscapes, viewsheds, or natural features whatsoever. See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. On this basis, staff recommends the 1990 rating be downgraded to four (4) points.

The Applicant seeks a rating of 2 points. They point out that the house is an uninhabitable, hazardous wreck, the water tower is a collapsed derelict gaping with holes, the garage and barn have been razed to the ground, the porch is an unsightly pile of rubbish, and the lean-to cellar has partially collapsed, rotted against the south side of the house. “The dwelling and water tower are the only remaining evidence of a farm complex, and both are in hazardous and deteriorated condition.” See September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings.

Opponent Elizabeth Graser-Lindsey suggested that the Board retain the 1990 rating of 7 points. The Board finds that retaining the earlier score to be untenable given the loss of functionality of the water tower and the current condition of the farmhouse.

On balance, the Board again takes the middle ground approach and finds that staff is correct that a score of four (4) is an appropriate reduction from the seven (7) points the HRB assigned in 1990.

d. It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood, or community. (up to 7 points)

Board Finding: This criterion requires the Board to consider the site in relation to its importance to the continuity or character of the community. The Muralt Farm site somewhat reflects the former agricultural character of the community, though not to a significantly greater extent than any other Clackamas County farmstead of its age.

In 1990, the Historic Review Board assigned five (5) points out of a possible seven (7) points to this criterion, as a result of the site's contribution to community character. Staff recommends that the Board downgrade the score by one point, for a rating of four (4) points. Staff's rationale for downgrading the score is based on the fact that the structures on the site have deteriorated with time, and many of the previous elements (*e.g.* the barn, garage, lean-to, covered porch, and the operative third floor of the water tower) no longer exist or have collapsed.

The parties both seek to change the 1990 score, but in different directions. The Applicants suggested a rating of 1 point because they feel the dilapidated farmhouse and water tower no longer reflect the aesthetic character of an increasingly residential community.

Conversely, opponent Elizabeth Grasser-Lindsey suggested that the rating be upgraded from 5 points to 6 points. She states the "Muralt Farm is an important contribution to the character and identity of the community of Beaver Creek" but offers no substantial evidence of that importance.

In 1990, the County HRB assigned a score of 5 points, but thirty years of wear, weathering, and neglect have reduced the condition of the site to the point that it no longer contributes much to the character of the changing Beaver Creek community. See pictures in the record and the September, 2021 report from AKS Engineering and Forestry related to the site and the conditions of the buildings. *See also* remarks by the chair of the Board of Commissioners, stating the site is a "eyesore" with buildings that are "falling down." Public hearing, February 9, 2022, at minute 49.00-50.00.

The capacity of the site to contribute to the continuity of character in the Beaver Creek area has been diminished significantly as the identifiable structures on the property have deteriorated and the neighborhood becomes increasingly rural residential, with smaller parcels and much less commercial agriculture. Thus, the Board finds 4 is an appropriate rating.

The Board's assigned total for this "Environmental Significance" section: 13 points. This score represents a seven (7) point drop since the time of the 1990 listing decision.

3. Historical Significance

a. It is associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the community, state, or nation. (up to 10 points)

Board Finding: This criterion focuses on eminent persons, social groups or organization, if any,

associated with the Muralt Farm. The owners for which this farm is named in the SHPO listing are not identified as having a significant historic role in the region. The farm site itself is not an identified Century Farm.

In the current staff report, staff recommends a rating of zero (0) points. The Applicant agrees with staff suggested rating of 0 points.

Conversely, opponent Elizabeth Graser-Lindsey suggests that the property be assigned a rating of 10 points, which is a full ten points higher than the 1990 Historic Review Board. Ms. Graser-Lindsey touts the accomplishments of area occupants, particularly one George Marshall, who appears to have had an interest in the property in the 1870s.

Ms. Graser-Lindsey's efforts in providing historic research is appreciated by the Historic Review Board, and the Board of Commissioners shares that gratitude. However, there is no substantial evidence in the record that proves Mr. Marshall ever lived on the property, nor had any association with the existing 1905 house, which was built decades after Mr. Marshall's death in 1887. The score assigned in 1990 (and in 2021_ by the Historic Review Board was 0 points for the site's association with historical persons, groups or institutions, and the Board finds no good reason to alter that conclusion based on substantial evidence in the record. The site was apparently owned by one Daniel Williams until 1893, when he sold to the builder of the 1905 house, Christian Muralt. Neither Messrs. Williams nor Muralt are known to be persons of historic importance, based on the evidence in the whole record.

Thus, the Board finds that the score of zero (0) remains the appropriate rating.

b. It is associated with an event that has made a significant contribution to the community, state, or nation. (up to 10 points)

Board Finding: Under this criterion, the Board considers any relevant important historical events. The site is not explicitly linked to a specific event that made a significant contribution to the community, state, or nation, based on substantial evidence in the whole record.

Both staff and the Applicant suggested a rating of 0 points. Opponent Elizabeth Graser-Lindsey agrees with that analysis, and also suggested a rating of 0 points.

In light of the universal agreement between the parties, the Board finds that zero (0) is the appropriate rating. The parties all agree that this site has no ties to any historically significant events.

c. It is associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, state, or nation. (up to 10 points)

Board Finding: The site is somewhat associated with the broad patterns of migration and rural settlement in Oregon as well as the founding of agricultural communities in Clackamas County.

In 1990, the HRB assigned five (5) points to the site under this criterion, and staff recommend that this rating stand. The Applicant suggested a rating of 1 point. Opponent Elizabeth Graser-

Lindsey agrees with staff, and suggests a rating of 5 points.

The Board agrees with Staff and Ms. Graser-Lindsey, finding 5 is an appropriate rating.

d. It possesses the potential for providing information of a prehistoric or historic nature. (up to 10 points)

Board Finding: The Board interprets this criterion as focusing on the potential to provide new and undiscovered historic information, such as an archeological site or disused ancient graveyard. There is not any known potential for providing information of a historic or pre-historic nature based on the evidence in the whole record. In 1990, the Historic Review Board assigned zero (0) points out of a possible ten (10) points to this criterion.

Both staff and the Applicant suggest that the rating should remain at 0 points, consistent with the conclusions of 1990 Historic Review Board.

On the other hand, opponent Elizabeth Graser-Lindsey suggests that the 1990 rating should be revisited, and that the score be upgraded from zero (0) points to a new rating of five (5) points. She argues:

“The Muralt Farm Complex provides lots of historic information and educational value as well as historic aesthetic value that we can appreciate as the interesting way our predecessors lived, as the progression of technology, and the current value of revisiting traditional technology. The farm house illustrates the traditional building methods such as post and beam (unlike today’s cement foundations), lapping siding with corners (unlike today’s siding sheets), and other interesting details. The cellar illustrates how refrigeration was handled/not needed. The watertower illustrates how water pressure and water storage was handled.”

The Board finds this is not substantial evidence of potential to provide new and undiscovered historic information. “Traditional building methods” and lack of refrigeration in 1905 are not new historical information. The water tower’s potential for providing any meaningful historical information is substantially compromised in its current nonfunctional and dilapidated state. The Board agrees with the Applicant and Staff, finding that appropriate rating remains zero (0) points as found by the 1990 Historic Review Board.

The Board’s assigned total for all four criteria in the “Historical Significance” section is five (5) points. This represents no change from 1990. The Board rejects the Applicant’s and the opponent’s efforts to assign a new score based on the historical significance of the property.

Additional Arguments Raised by Opponents.

Several opponents (Susan McKenna, Barry Lindsey) stated their concern that the property owners are developers who live outside Clackamas County and wish to remove the Historic designation overlay so the property could eventually be subdivided. The Board finds that issue is

not supported by substantial evidence in the whole record, not relevant to these proceedings, and outside the scope of this land use application. Removal of the historic designation will have no effect on the uses ordinarily allowed in the underlying Rural Residential Farm/Forest 5-acre (RRFF-5) zone.

Opponent Elizabeth Graser-Lindsey states that only the original landowner who applied for listing can have the property delisted under the authority of OAR 660-023-0200(9)(a). She states:

“More importantly, an owner who acquired a property after it was designated as a historic resource on the resource list does not have the right to have the designation removed under OAR 660-023-0200(9)(a).”

The quotation more or less states the holding of *Lake Oswego Preservation Society v. City of Lake Oswego*, 360 Or 154 (2016), a case which interpreted ORS 197.772(3). The Board understands, however, that this proceeding is being undertaken pursuant to OAR 660-023-0200(9)(b)(A), not (9)(a).

SECTION 4 - SUMMARY OF FINDINGS

Per ZDO 707.02(B), a site or structure must receive a minimum of 40 points under the applicable criteria to be considered for Historic Landmark status. The Board interprets ZDO 707 such that a property can be removed from Historic Landmark status if, based on the degradation of the condition of the property, changing character of the area, and loss of functionality, the resource has lost the qualities for which it was originally recognized.

The above analysis of the property based on the criteria used to determine site’s historic qualities under ZDO 707.02(B) yielded a revised score of 32 points, down 9 points since 1990. The Board finds that the site no longer meets the sufficient number of evaluation criteria points for protection as a Clackamas County Historic Landmark.

Given this property qualified as a Goal 5 Historical Resource by just one point in 1990, it is reasonable to expect that thirty years of aging and neglect would take a serious toll, absent serious effort spent on maintenance, repair and preservation, which never happened on this site, and would result in the property falling below the threshold needed to qualify as a historic landmark under the ZDO. Staff, and the Historic Review Board, both found this property has lost nine points since 1990, dropping from a score of 41 to 32, which is below the minimum of 40 points that would justify continuing the Historical listing.

Though the property may have been rightly given historic landmark status previously, successive alterations to and deterioration of the farmhouse and water tower, the loss of functionality of those two structures, and the shifting land uses in the surrounding mean the property no longer qualifies under the relevant criteria set forth in ZDO 707.02(B) and removal of landmark status is warranted.

CONCLUSION:

Based on the above analysis of the ordinance standards, the Board concludes that the removal of the HL (Historic Landmark) zoning from this property is justified on the findings of fact and conclusions of law based on substantial evidence in the record as a whole.

RECORD OF INQUIRIES
RE: Relocation and Salvage Opportunities

Date/Time	Person	Phone number/Email	Notes
VM Inquiry: 3/31/22 at 10:09 am Returned: 3/31/22 at 4:00 pm	Vicky Martin Maas	(503) 756-6552 vmartinmaas@icloud.com	Saw sign along Beavercreek Road. Was interested in history of property. Marie emailed her the SHPO information and land use decision on 3/31/22.
Email inquiry: 4/26/2022 at 6:29 pm Returned: 4/27/2022 at 9:16 am	Amy Painter	Secret.garden1178@gmail.com (503) 869-5245	Interested in what is happening with the old farm house and water tower and how to salvage. Marie emailed her the period of notification and process for potential future demolition on 4/27.
Email inquiry: 5/21/2022 at 12:53 pm	Amy Painter	(503) 869-5245	Is interested in leaving information to learn about future salvage inquiries.
Phone inquiry: 5/23/2022	Vicky Martin Maas	(503) 756-6552	Interested in removing plants, irises, lilacs, and other plants for historical purposes.
Phone inquiry: 6/21/2022 Returned: 7/5/2022 at 10am	Sam Schaefer	(503) 998-3199	Interested in salvage.

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to _____
- Other _____

Originating County Department: _____

Other party to contract/agreement: _____

Description:

After recording please return to: _____

- County Admin
- Procurement

If applicable, complete the following: _____

Board Agenda Date/Item Number: _____