



PLANNING COMMISSION STAFF REPORT

This document represents the Planning and Zoning Staff findings and recommendations for a Type III Land Use Application for a Comprehensive Plan amendment and Zone Change as cited below.

SUMMARY

DATE: August 14th, 2020

HEARING DATE: August 24th, 2020 (Agenda Item Time: 6:30 pm)

CASE FILE NO.: Z0079-20-CP, Z0080-20-ZAP

PROPOSAL: Proposal to change the Comprehensive Plan designation from Rural to Rural Industrial and to change the zoning designation of the subject property from Rural Residential Farm Forest 5-Acre, RRFF-5, to Rural Industrial (RI) to facilitate ongoing industrial operations on the site, comprised of two separate tax lots.

STAFF CONTACT(S): Melissa Ahrens, (503) 742-4519, mahrens@clackamas.us

LOCATION: 23020 SE Eagle Creek Rd and 23340 SE Eagle Creek Rd, T2S, R4E, Section 32, Tax Lot 4901 and 4902

APPLICANT(S): Greg Ernst

OWNER(S): Greg Ernst

TOTAL AREA: Approximately 4.72 acres

ZONING: RRFF-5 (Rural Residential Farm Forest 5 acre)

COMPREHENSIVE PLAN DESIGNATION: Rural

COMMUNITY PLANNING ORGANIZATION: Eagle Creek-Barton CPO

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: The complete application file is available for review online by accessing the following link: <https://accela.clackamas.us/citizenaccess/> . If you are unable to access the file online, contact the staff person listed on the front page of this decision for assistance. Copies of all documents may be purchased at the rate of \$1.00 for the first page and 10-cents per page thereafter.

APPLICABLE APPROVAL CRITERIA: This application is subject to the standards and criteria of Clackamas County Zoning and Development Ordinance (ZDO) Section 1202, Zone Changes, and the Comprehensive Plan. This application is being processed as a Type III Permit, pursuant to Section 1307. A Type III Permit is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

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Noticing

This application has been processed consistent with those procedures. Specifically, the County has provided notice to interested agencies, local governments and property owners within 500 feet of the subject property consistent with State law and Section 1307 of the ZDO. The notification to property owners, public notices and hearings will ensure an opportunity for citizens to participate in the land use process.

Responses Received:

None

Exhibits:

1. Property Aerial
2. Tax Map
3. Site Plan
4. Notices

I. STAFF RECCOMENDATION

1. **APPROVAL** of the Comprehensive Plan Map Amendment (File No. Z0079-20-CP) from Rural (R) to Rural Industrial (RI)
2. **APPROVAL** of the zone change (File No. Z0080-20-ZAP) from Rural Residential Farm Forest, 5 acre (RRFF-5) to Rural Industrial (RI).

The Planning Staff is recommending **APPROVAL** of the Comprehensive Plan amendment and Zone Change Application Z0079-20-CP and Z0080-20-ZAP because the proposed Comprehensive Plan Amendment and Zone Change meets the applicable Comprehensive Plan criteria, statewide planning goals, and ZDO Section 1202. Planning Staff recommends approval of the proposed Comprehensive Plan amendment and zone change based on the following findings in support of the approval, as detailed in Section II of this Staff Report.

II. COMPREHENSIVE PLAN AMENDMENT APPLICATION FINDINGS AND DECLARATIONS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 1202, the Comprehensive Plan, and Statewide Planning Goals. The Clackamas County Planning and Zoning Staff have reviewed these Sections of the ZDO, the Comprehension Plan and statewide planning goals in conjunction with this proposal and make the following findings and conclusions:

A. Background and Proposed Comprehensive Plan Amendment

Subject Site

The subject site (made up of two separate properties) is located in a predominantly rural area, with an established rural character and pattern of development. The subject properties are bordered by other RRFF-5 zoned properties to the east and Rural Industrial zoned properties across Eagle Creek Rd. to the West. The subject property is comprised of two tax lots, 4901 and 4902, and is approximately 4.72 acres in size. The subject property is located on the easterly side of SE Eagle Creek Rd., approximately 1,500 ft. south of the intersection of Eagle Creek Rd. and Hwy 211 in the Eagle Creek area. Tax lot 4901 is currently developed with an access drive, and parking area and an approximately 1,800 s.f. office building used by a septic company. The southerly portion of tax lot 4901 and the entirety of tax lot 4902 are developed with an approximately 10,000 s.f. maintenance/repair shop and vehicle and equipment storage yard. No mapped natural resources, principal rivers, river and stream conservation areas, or floodplain is present on the subject site. Access to the site is via SE Eagle Creek Rd. See Figure 1 below and Exhibit 1 and 2.

Figure 1: Aerial View of the Properties



Land Use History

The commercial and industrial uses on the subject site were established as early as 1972, before the site was zoned RRFF-5, and are all legal, non-conforming, uses. There have been four non-conforming use alteration land use approvals granted for the property, starting in 1995. From 1972 to 1992, tax lot 4902 had been used as the storage and maintenance facility for the Leathers Oil Co. and prior to that had been a truck repair facility. Leathers Oil Co. used the site for storage of oil delivery trucks and miscellaneous equipment and as a maintenance shop facility. An excavation contractor's truck and equipment storage and maintenance use moved onto the site shortly after Leathers Oil Co. vacated the facility. Tax lot 4901, the site of the existing office building, had been developed with a single family dwelling which may have also been used to house Leathers Oil Co. activities. That structure was demolished to make way for the office building upon approval of Z1176-95-E. On February 14, 2007, the Planning Division approved an application, File No. Z0961-06-E, to construct an addition of 1,440 s.f. to the office building finding the existing use to be an approved, lawfully continued nonconforming use. On December 19, 2007, the Planning Division approved another alteration application, File No. Z0797-07-E, to add approximately 1,900 s.f. of additional space to the office building, but it appears that this addition was never built. Additionally, in 2012, Z044-12-E approved an alteration of the nonconforming use to permit use of approximately 2900 s.f. of the existing 10,000 s.f. shop building for a cabinetry manufacturer.

Proposal

The applicant proposes to change the Comprehensive Plan land use designation to Rural Industrial and Zoning district from RRFF-5 to Rural Industrial to authorize the existing uses on the property so that they do not need to go through the alteration of non-conforming use land use approval process for any modifications to the buildings and industrial uses on site in the future. Primary uses allowed within the proposed RI zoning district are listed in Section 604.03 of the Clackamas County Zoning and

Development Ordinance (ZDO) and would include the existing non-conforming industrial and commercial uses of the subject site.

Service Providers:

1. Sewer: The subject properties are not located within a public or private sewer district. Sewage disposal is accommodated on site by a DEQ approved holding tank.
 2. Water: Each of the subject properties is served by an on-site well.
 3. Fire Protection: Clackamas RFPD #1
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B. Submittal Requirements

Section 1307 and Subsection 1202.02 of the Zoning and Development Ordinance lists the information that must be included in a complete application for a Comprehensive Plan amendment and Zone Change.

This application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in the Comprehensive Plan, Statewide Planning Goals, and Section 1202 of the ZDO. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1307 and 1202.02 are included in the application. The application was submitted on February 20, 2020. The application was deemed incomplete on March 6th, 2020. The applicant responded with a signed incomplete form stating they planned to submit part of the requested information on June 1st, 2020, and submitted the additional information needed to complete the application. Notice was sent out for a Planning Commission Meeting on July 20th, 2020.

The submittal requirements of Subsection 1307 and 1202.02 are met.

C. Statewide Planning Goal Consistency

Goal 1: Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1300 including notice to individual property owners within 500 feet of the subject property, notice in the local newspaper, and notice to affected agencies, dual interest parties and to the Eagle Creek/Barton CPO. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input. **The proposal is consistent with Goal 1.**

Goal 2; Land Use Planning: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments; Clackamas County RFPD #1, Eagle Creek-Barton CPO, and the Department of Land Conservation and Development (DLCD).

The subject property is not located within any Urban Growth Management Areas (UGMA) of any nearby or surrounding cities. The property is not located in a designated urban or rural reserve area. Therefore, this application does not affect any other adopted City Comprehensive Plans.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the County Comprehensive Plan. **This proposal is consistent with Goal 2.**

Goal 3; Agricultural Land: To preserve and maintain agricultural lands.

The subject property is located within an acknowledged exception area designated Rural on the County Comprehensive Plan map. This proposal does not include any land planned or zoned for Agricultural uses. **Goal 3 is not applicable.**

Goal 4; Forest Land: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The subject property is located within an acknowledged exception area designated Rural on the County Comprehensive Plan map. This proposal does not include any land planned or zoned for Forest uses. **Goal 4 is not applicable.**

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.

No outstanding scenic views/sites, wilderness areas, wetlands, historic sites or structures, cultural areas, potential or approved Oregon recreation trails or other significant Goal 5 resources identified in the Comprehensive Plan are located on the subject property. **The proposal is consistent with Goal 5.**

Goal 6; Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water and land resources of the state. The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. The County also has implementing regulations to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. These regulations will be applied to any future development proposals on the property and will protect the affected air, water and land resources. **This application is consistent with Goal 6.**

Goal 7; Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters.

The subject property is not located within any designated floodplain area. According to the Department of Geology and Mineral Industries (DOGAMI) maps the property does not contain any steep slopes or natural hazards

(landslide topography, local slump, earth flow, mudflow or debris flow areas). **This application is consistent with Goal 7.**

Goal 8; Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.

This proposal does not involve any designated recreational or open space lands, affect access to any significant recreational uses in the area, or involve the siting of a destination resort. This proposal will have no impact on the recreational needs of the County or State. **Goal 8 is not applicable.**

Goal 9; Economic Development: “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.”

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies.

OAR 660-009 (Industrial and Commercial Development) implements Goal 9. Pursuant to OAR 660-009-0010(1) the requirements and standards in OAR 660-009 are only applicable to areas within urban growth boundaries and does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Therefore OAR 660-009 is not applicable. Generally, approval of this application will increase the inventory of industrial land available for rural industrial uses. **This application is consistent with Goal 9.**

Goal 10; Housing: "To provide for the housing needs of citizens of the state."

This Goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-008 addresses the general housing standards.

The subject property is located outside of the Portland Metropolitan Urban Growth Boundary. Therefore, OAR 660-007 is not applicable to this proposal. This proposal will have no effect on the inventory of rural housing because there are no existing residences on the subject properties, only non-conforming commercial and industrial buildings. **This application is consistent with Goal 10.**

Goal 11; Public Facilities and Services: “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water, solid waste and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. OAR 660-011 implements the requirements of Goal 11.

OAR 660-011-0060 and OAR 660-011-0065 regulates the provisions for, and the extension of sewer and water service to rural lands, respectively. The subject properties are not located within a public sewer district. Sewage disposal is accommodated by an on-site sewage disposal system. The subject properties are served by two existing wells.

Storm drainage is subject to the requirements in Section 1008 of the Clackamas County Zoning and Development Ordinance and will require on-site detention and treatment. The site is already improved with stormwater detention and run-off facilities and this proposal will not impact any public storm drainage facilities.

The property is also appropriately located within the service boundaries of Clackamas County RFPD #1 and Clackamas County Sheriff's District.

This application is consistent with Goal 11.

Goal 12; Transportation: “To provide and encourage a safe, convenient and economic transportation system.”

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12. OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) requires any amendments to a functional plan, acknowledged comprehensive plan or a land use regulation (including a zoning map) which significantly affects an existing or planned transportation facility to put in place measures as provided in OAR 660-012-0060(2) unless the amendment is allowed under OAR 660-012-0060(3), (9) or (10).

Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

- a. *Changes the functional classification of an existing or planned transportation facility;*
- b. *Changes standards implementing a functional classification; or*
- c. *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluation projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 1. *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 2. *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan or;*
 3. *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

Compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;

- a. *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- b. *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*

c. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

d. Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, of the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.

The applicant has submitted a Traffic Impact Analysis Memo included in the submitted application addressing the impacts from this proposal. The applicant evaluated 'reasonable worst case scenario' traffic allowed in the existing RRFF-5 zoning district and in the proposed RI zoning district, specifically looking at the impact to SE Eagle Creek Rd. The TIA letter estimates that under the existing zoning, RRFF-5, the outright allowed uses on site could reasonably generate up to one morning peak hour trip, two evening peak hour trips, and 8 average weekday trips. Under the proposed RI zone, the outright allowed uses on site could reasonably generate up to 35 morning peak hour trips, 32 evening peak hour trips, and 252 average weekday trips. Accordingly, the net change in trip generation potential at the site after the proposed zone change is projected to increase by 34 morning peak trips, 30 evening peak hour trips and 234 average weekday trips. The trip generation of the existing non-conforming use of the property is based off of the existing building square footage and uses and is estimated at less than 10 trips during each peak hour and 62 trip each weekday. As such, the current and expected future development on site is even less impactful than the reasonable worst case scenario estimated in the traffic memo. The applicant's submittal materials cite Policy 1F5 from the Oregon Highway Plan, which quantifies "significant effect" at a 400 trip threshold and states:

"Action 1F.5 further establishes that, a small increase in traffic does not cause "further degradation" of the facility. Policy 1F defines a "small increase in traffic" in terms of certain thresholds based on average daily trips. In this case, the threshold for a small increase in traffic between the existing plan and the proposed amendment is no more than 400 daily trips. Since the net difference in worst case trip generation is less than 400, this section is not triggered."

Clackamas County Engineering staff concurs with the conclusions in the application submittal and has reviewed the submitted Traffic Impact Analysis Memo and determined that there will be no significant impact on the transportation system as a result of the proposed Comprehensive Plan Amendment and zone change due to the minimal level of traffic increases anticipated from the Comprehensive Plan/Zone change and industrial uses on site.

Based on the submitted traffic analysis and trip generation estimates the proposed zone change would be consistent with OAR 660-012-0060(1) and would not significantly affect the transportation facility, since it does not exceed the thresholds or triggers for project conditioning or modification as described in OAR 660-012-0060(1)(a)-(c).

This application is consistent with Goal 12.

Goal 13; Energy Conservation: To conserve energy.

This proposal will have no impact on any known or inventoried energy sites or resources. There are no planning or implementation measures under this Goal applicable to this application. **Goal 13 is not applicable.**

Goal 14; Urbanization: To provide for an orderly and efficient transition from rural to urban land uses.

The subject property is located outside of the Metropolitan UGB and the UGB of all nearby cities. This proposal does not involve a change in the location of the UGB, a conversion of rural land to urban land, or urbanizable land to urban land. The property is not located within at designated urban or rural reserve areas. There are no planning or implementation measures under this Goal applicable to this application. **Goal 14 is not applicable, see Section III of this report for additional background.**

Goal 15: Willamette River Greenway: To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The subject property is not located within the Willamette River Greenway. **Goal 15 is not applicable.**

Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

Goals 16, 17, 18 and 19 are not applicable in Clackamas County.

D. Compliance with Clackamas County Comprehensive Plan Policies

Chapter 2; Citizen Involvement: The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.

There is one specific policy in this Chapter applicable to this application.

Policy 2.A.1; Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and County wide special interests, but also of those within the neighborhood or areas in question.

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. This application has been processed consistent with those procedures. Specifically, the County has provided notice to the Citizen's Planning Organization in the area (Eagle Creek-Barton CPO), to property owners within 500 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1307 of the ZDO. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1307 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process. **This application is consistent with Chapter 2.**

Chapter 3; Natural Resources and Energy: The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.

This Chapter contains eight (8) Distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Each of these Sections is addressed below.

Water Resources: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Wetlands and Groundwater.

There are no river or stream corridors identified on the River and Stream Conservation Area map located on or near the subject property. The subject property is not located in any designated Habitat Conservation Areas. The subject property is not located in any designated Water Quality Resource Areas. There are no wetlands identified on the National Wetland Inventory or other adopted wetland inventories on or near the subject property. The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Agriculture: This application does not involve any land planned or zoned for Agricultural uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Forests: This application does not involve any land planned or zoned for Forest uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Mineral and Aggregate Resources: The subject property is not identified on the “Inventory of Mineral and Aggregate Resource Sites” in Table III-2 of the Comprehensive Plan. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Wildlife Habitats and Distinctive Resource Areas: There are no significant wildlife habitats or scenic areas identified on Map III-2 of the Comprehensive Plan located on or near the subject property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Natural Hazards: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The subject property is not located within a designated floodplain. The subject property is included on DOGAMI maps. There are no natural or geologic hazards, steep slopes or other natural hazards. Soil characteristics of the site are not a limiting factor for the development under the existing plan designation as well as the proposed rural industrial plan designation. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

Energy Sources and Conservation: There are no policies in this Section applicable to this application.

Noise and Air Quality:

This site is surrounded by land developed with rural residential and rural industrial zoned properties. Existing uses on site mostly occur within existing buildings, however, the property is topographically elevated from residential properties to the east and the RRFF-5 zone adjacent to the property on the south contains a gun club and does not appear to be used as a residential property.

The Planning Staff believes this proposal is consistent with these policies because the property has a historical commitment to business and industrial uses. The level of noise and odor will not increase as a result of rezoning on the property.

This application is consistent with the Noise and Air Quality Section of the Plan.

This application is consistent with Chapter 3.

Chapter 4; Land Use: This Section of the Comprehensive Plan provides the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.

This Chapter contains three distinct Sections addressing; 1) Urbanization; 2) Urban Growth Concepts; and 3) Land Use Policies for the following Land Use Plan designations; Residential, Commercial, Industrial, Open Space and Floodplains, Unincorporated Communities, Rural Commercial, Rural Industrial, Rural, Agriculture and Forest. Each of these Sections is addressed below.

Urbanization Section. This Section of the Plan outlines policies guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas, Urban Reserve Areas and Population. The subject property is not within an urban growth boundary, future urban area, future urban study area or urban reserve area. There are no policies in this Section of the Plan applicable to this application. The Urbanization policies are not applicable.

Urban Growth Concept Policies. The Urban Growth Concept policies in this Section of the Plan are intended to implement the Region 2040 Growth Concept Plan. The subject property is not located within the boundaries of the Region 2040 Concept Plan identified on Map IV-8 of the Comprehensive Plan. The Urban Growth Concept policies are not applicable.

Land Use Plan Designations. The subject property is currently designated Rural on the Comprehensive Plan map. The proposed amendment is to change the land use plan designation to Rural Industrial. Therefore, only the existing Rural policies and Rural Industrial policies of this Chapter are applicable to this application. The remaining policies pertaining to the Residential, Commercial, Industrial, Open Space and Floodplains, Unincorporated Communities, Rural Commercial, Agriculture and Forest plan designations in this Section of the plan are not applicable.

The specific plan policies for the Rural Industrial plan designations in Chapter 4 are evaluated in section E, starting on page 16.

Based on these findings and those contained in Section E of this staff report, the proposed Rural Industrial plan designation is appropriate on a portion of the subject property. **This application is consistent with Chapter 4.**

Chapter 5; Transportation: This Chapter outlines policies addressing all modes of transportation.

Foundation and Framework: includes policies relating to coordination; safety; equity, health and sustainability; intelligent transportation systems; and transportation demand management. None of these policies are applicable.

Land Use and Transportation: includes policies relating to the integration of land use and transportation; parking; rural tourism; and scenic roads.

5.I.2 Promote the protection of recreation values, scenic features and an open, uncluttered character along designated scenic roads. Developments adjacent to scenic roads shall be designed with sensitivity to natural conditions [...]

The subject site is located on SE Eagle Creek Rd. and is not designated as a scenic roadway in this chapter of the Comprehensive Plan. As such, these policies are not applicable.

Active Transportation: includes policies relating to pedestrian and bicycle facilities and multi-use paths. None of these policies are applicable.

Roadways: includes policies relating to functional classification; urban and rural roadway considerations; project development; improvements to serve development; and performance evaluation and access standards. There is one applicable policy in this section of the Comprehensive Plan:

5.O.9 Rural Plan to support the existing development pattern and through traffic needs of the rural communities, and not to support or promote urbanization.

As demonstrated by the submitted Traffic Analysis Memo in the application materials there will be no significant impact on traffic needs of the rural community from the proposed Comprehensive Plan Amendment and zone change. The area already contains a mix of rural residential and rural industrial uses and the proposed zone change would only allow existing non-conforming industrial uses on site to continue in perpetuity, per the allowed uses in the RI zone. The proposed Comprehensive Plan/Zone change can be found consistent with this policy.

Transit: includes policies relating to transit and transit-supportive amenities. None of these policies are applicable.

Freight, Rail, Air, Pipeline and Water Transportation: includes policies relating to general freight movement; freight trucking; rail; airports; pipelines; and water transportation. None of these policies are applicable.

Finance and Funding: includes policies relating to funding capital transportation improvements and maintenance. None of these policies are applicable.

Transportation Projects and Plans: includes policies relating to the 20-year and five-year capital improvement plans. Also identifies Special Transportation Plans that are adopted by reference as refinements of the TSP and plans or studies that need to be completed [...]. Only one policy is applicable to the subject proposal:

5.F.6 Require changes in land use plan designation and zoning designation to comply with the Transportation Planning Rule [Oregon Administrative Rules (OAR) 660-012-0060].

Based on the submitted traffic analysis and trip generation estimates the proposed zone change would be consistent with OAR 660-012-0060(1) and would not significantly affect the transportation facility, since it does not exceed the thresholds or triggers for project conditioning or modification as described in OAR 660-012-0060(1)(a)-(c). As such, the subject proposal is consistent with this policy.

In summary, this proposal is consistent with Chapter 5.

Chapter 6; Housing: The purpose of the Housing element of the Plan is to, “Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010.” This Chapter includes a variety of policies regarding housing choices, affordable housing, neighborhood quality, urban infill, multifamily

residential housing, common wall units, mobile homes and density bonuses for low cost housing and park dedication. There are no policies in this Section of the Plan applicable to this application. **Chapter 6 is not applicable.**

Chapter 7; Public Facilities and Services: The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way. The Public Facilities Section of this Chapter includes policies regarding Sanitary Sewage Treatment, Water, Storm Drainage, Solid Waste and Street Lighting. The policies regarding Sanitary Sewage Treatment and Street Lighting are not applicable because the property is not located within a public sewer or street lighting district. (Sewage disposal is accommodated by an on-site sewage disposal system. There is a Department of Environmental Quality (DEQ) holding tank approved on site (Reference County File No. STO72805) for wastewater disposal purposes that serves the existing buildings and any future site development and no changes are currently proposed. Any future development on site would be subject to a Design Review process which would require demonstration for septic feasibility as an application submittal requirement.

Policies 14.0 - 18.0 under the Storm Drainage Section include a number of policies requiring new development to provide storm drainage, water quality and erosion control plans. The subject property is not located within a public storm water / storm drainage district. Therefore, storm drainage, water quality and erosion control is regulated pursuant to Section 1006 of the Clackamas County Zoning and Development Ordinance. This proposal will not impact any public storm drainage facilities. The standards in Section 1006 require all new development to maintain and improve water quality, minimize runoff and mitigate offsite impacts. These standards are adequate to ensure protection of groundwater and surface water and would be applied to any future Design Review application necessary for the approval of new construction or building expansion on site.

Policy 15.0 requires water service purveyors to provide water services for non-urban areas at levels appropriate for non-urban uses. The applicant states that a well is available on each discrete property with water availability to accommodate rural industrial use. Specifically, there is a primary well that serves all buildings on both parcels and a secondary well that serves currently as irrigation or water for the lawn on parcel 4901. The wells have been existing for at least 30 years.

No changes to the water usage on site are considered as part of this Comprehensive Plan/zone change application. **The subject proposal is consistent with Chapter 7.**

Chapter 8; Economics: The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries. **There are no policies in this Section of the Chapter applicable to this application. Chapter 8 is not applicable.**

Chapter 9; Open Space, Parks, and Historic Sites: The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County. The subject property does not include any lands designated as open space or park

land. There are no designated Historic Landmarks, Historic Districts or Historic Corridors on or adjacent to the subject property. **Chapter 9 is not applicable.**

Chapter 10; Community Plan and Design Plans: This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and Mcloughlin Corridor Design Plan.

The subject property is not located within the boundary of any Community Plan or Design Plan area. **Chapter 10 is not applicable.**

Chapter 11; The Planning Process: *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

The subject property is not located within the Metro Urban Growth Boundary or within the Urban Growth Management Area of any nearby cities. In the City, Special District and Agency Coordination Section of this Chapter, Policy 1.0, is applicable. In the Amendments and Implementation Section of this Chapter, Policy 1.0 and 3.0 are applicable.

City, Special District and Agency Coordination Section

Policy 1.0; Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.

Notice of this application has been provided to the following agencies and governments for comments; DLCD, Eagle Creek-Barton Community Planning Organization and Clackamas Fire Department. This notice and advertised public hearings before the Planning Commission and Board of County Commissioners provide an adequate opportunity for interagency coordination efforts of this plan amendment and demonstrates substantial compliance with this policy. This policy is met.

Amendments and Implementation Section

Policy 1.0; Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.

Based on the findings in Part 1 of this report this proposal is consistent with all of the LCDC Statewide Planning Goals. The Region 2040 Urban Growth Management Functional Plan and Metro Framework Plan are not applicable to this application because the property is located outside the Metro UGB and service district. This policy is met.

Policy 3.0; Amend the Comprehensive Plan pursuant to the following procedures and guidelines (listed in subpolicies 3.1 through 3.6).

This is a quasi-judicial Comprehensive Plan map amendment and is subject to Policy 3.0. The Planning Commission and Board of County Commissioners will review this application through one or more public

hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with all ZDO notice requirements. The property owners within 500 feet of the subject property were notified as required in Section 1303 of the ZDO. The Eagle Creek- Barton CPO was notified of the application on July 20th, 2020, over 35 days prior to the first scheduled public hearing before the Planning Commission on August 24th, 2020. **This policy is met. This application has been processed consistent with Chapter 11.**

E. Compliance with Rural Industrial Plan Policies in Chapter 4 of the Comprehensive Plan

The Land Use Chapter of the Comprehensive Plan contains specific policies for determining the appropriate Comprehensive Plan land use designation for property. The request in this comprehensive plan amendment is to modify the land use designation from rural to rural industrial. Consistency findings for this request are included as follows:

Rural Industrial Plan Policies: The Rural Industrial Section of Chapter 4 of the Comprehensive Plan identifies the criteria which must be satisfied in order for the Rural Industrial Plan designation to be applied to an area. The Goals of the Rural Industrial Section of the Plan are:

1) To provide for the continuation of industrial uses in non-urban areas having an historical commitment to such uses. 2) To provide for the industrial redevelopment of abandoned or diminished mill sites. 3) To implement the goals and policies of this Plan for industrial development in Unincorporated Communities.

Policy 4.MM.1: *“The Rural Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with rural character, rural development, and rural facilities and services.”*

The subject property is located in a non-urban area. The Rural Industrial Plan designation and implementing RI zoning district limits the type and scale of uses which are appropriate with rural development. The property is not located in a public sewer, water, or surface water district and public services are not proposed or necessary to support the proposed Rural Industrial plan designation. Services to the area include garbage service and sheriff patrol services. The existing on site uses, services and facilities are consistent with the allowed uses in the RI zone and are appropriate to maintain the rural character of the area.

This policy is met.

Policy 4.MM.3: *“Areas may be designated Rural Industrial when the first, the second, or both of the other criteria are met”:*

Policy 4.MM.3.1: *“Areas shall have an historical commitment to industrial uses; or”*

This criterion does not identify what "areas" should be used or how it should be defined in the evaluation of this plan policy and remaining plan policies where the word "areas" is used. The Board of County

Commissioners over the years have made various interpretations of this word, ranging from the just the subject property or to include other broadly defined areas around the subject property. The Planning Commission has the policy discretion to decide the appropriate area of consideration. Planning Staff believes the subject properties should be considered as the “area” in the evaluation of this policy, because the historic commitment to industrial uses is limited to these properties and not any other adjacent RRFF-5 properties. The findings below will also address the nature and type industrial uses that have occurred on the properties.

The applicant has indicated that the properties do have a historical commitment to industrial uses. *“The site has been historically committed to industrial use. The property was in industrial use prior to the creation of Oregon’s statewide land use system. This use has not lapsed in that time.”* The commercial and industrial uses on the subject site pre-date the designation of the RRFF-5 zoning district and currently consist of a truck and equipment storage and maintenance facility, a cabinetry manufacturer and a septic servicing company. The entire site has historically been used for industrial purposes, originally to accommodate the Leathers Oil facility, and is currently used to provide storage, parking, and operation functionality for the existing on site industrial uses.

The above information demonstrates the property has an historic commitment to uses allowed in the Rural Industrial zoning district. The evidence demonstrates that business activity in the form of a nonconforming use has existing on the property dating back to 1972. Over time a number of alterations and expansion of the business have been approved. The subject site (made up of two separate properties) is located in a predominantly rural area, with an established rural character and pattern of development. The subject properties are bordered by other RRFF-5 zoned properties to the east and Rural Industrial zoned properties across Eagle Creek Rd. to the West. The existing uses on site are rural in nature and are appropriate for and limited to the needs and requirements of the local area to be served. Additionally, their type and intensity is consistent with those typically found in other rural areas of the County. The existing uses on site that would be permanently authorized through the subject Comprehensive Plan and Zone change would also not become a magnet for people outside the area since they are rural industrial uses and not expected to have significant traffic impacts.

Based on the above findings, the subject property is the appropriate “area” to consider in evaluating this policy. The findings demonstrate that the property has an historical commitment to industrial uses. **This policy is met.**

Policy 4.MM.3.2: *“The site shall be an abandoned or diminished mill site, as defined in the Zoning and Development Ordinance, provided that only the portion of the site that was improved for the processing or manufacturing of wood products may be designated Rural Industrial; or”*

The site is not an “*abandoned or diminished mill site*”.

Policy 4.MM.3.3: *“Areas shall be located within an Unincorporated Community; and”*

The subject property is not located within the boundaries of an Unincorporated Community. **This policy is not met.**

Policy 4.MM.3.4: *“The site shall have direct access to a road of at least an arterial*

classification.”

The subject property has frontage on Eagle Creek Rd., a major arterial road.

Summary: This application satisfies the first policy (Policy 4.MM.3.1), therefore **Policy 4.MM.3 is met.**

III. ZONE CHANGE FINDINGS

The zone change criteria are listed in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO). Section 1202.03 lists the approval criteria for a zone change as follows

- 1. 1202.03(A)** *The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.*

Chapter 2; Citizen Involvement

This application has been processed consistent with the procedures required by Chapter 2. Specifically, the County has provided notice to the Citizen’s Planning Organization in the area (Eagle Creek-Barton CPO), to property owners within 500 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1307 of the ZDO. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1307 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process. **This application is consistent with Chapter 2.**

Chapter 3; Natural Resources and Energy

The Planning Staff believes this proposal is consistent with these policies because the property has a historical commitment to business and industrial uses. The level of noise and odor will not increase as a result of rezoning on the property. **This application is consistent with Chapter 3.**

Chapter 4; Land Use

Based on these findings and those contained in Section E of this staff report, the proposed Rural Industrial plan designation is appropriate on a portion of the subject property. **This application is consistent with Chapter 4.**

Chapter 5; Transportation

Based on the submitted traffic analysis and trip generation estimates the proposed zone change would be consistent with OAR 660-012-0060(1) and would not significantly affect the transportation facility, since it does not exceed the thresholds or triggers for project conditioning or modification as described in OAR 660-012-0060(1)(a)-(c). **This application is consistent with Chapter 5.**

Chapter 6; Housing;

This Chapter is not applicable.

Chapter 7; Public Facilities and Services

No changes to the water usage on site are considered as part of this Comprehensive Plan/zone change application. **The subject proposal is consistent with Chapter 7.**

Chapter 8; Economics

This Chapter is not applicable.

Chapter 9; Open Space, Parks, and Historic Sites

This Chapter is not applicable.

Chapter 10; Community Plan and Design Plans

This Chapter is not applicable.

Chapter 11; The Planning Process: This is a quasi-judicial Comprehensive Plan map amendment and is subject to Policy 3.0. The Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with all ZDO notice requirements. The property owners within 500 feet of the subject property were notified as required in Section 1303 of the ZDO. The Eagle Creek-Barton CPO was notified of the application on July 20th, 2020, over 35 days prior to the first scheduled public hearing before the Planning Commission on August 24th, 2020. This policy is met. **This application has been processed consistent with Chapter 11.**

1202.03(A) Consistency Conclusion: Based on these findings, the proposed Comprehensive Plan and zoning designation change, as proposed, is found to be consistent with 1202.03(A).

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 under existing zoning designations shall be considered.*

The subject property is not located in a public sanitary sewer, or surface water district, nor will there be a need to extend these services to support the proposed RI zoning district. Sewage disposal is and would continue to be accommodated by an on-site DEQ approved holding tank approved on site (Reference County File No. STO72805). The holding tank on tax lot 4901 serves both parcels. Speedy Septic handles all septic maintenance and services on both properties. This system historically handled industrial uses on the properties and has a demonstrated capacity to handle current and past industrial uses. On site wells provide needed water to accommodate industrial uses. Surface water is already accommodated on site by an existing culvert and the applicant submitted a signed feasibility statement from County Engineering stating that surface water was adequately accommodated on site. Any future industrial development on site would need to be accommodated by on-site detention or other facilities approved under Section 1006 of the ZDO as administered by the DTD, Engineering Division. As such, no public services are required to accommodate industrial uses on site, as allowed by the proposed zone change.

1202.03(B) Consistency Conclusion: The proposed zone change can be found compliant with 1202.03(B).

1. **1202.03(C)** *The transportation system is adequate and will remain adequate with approval of the proposed zone change [...].*

The subject properties each have frontage and discrete access driveways on SE Eagle Creek Rd, which is classified by the county as a Major Arterial. The applicant has submitted a Traffic Impact Analysis Memo included in the submitted application addressing the impacts from this proposal. The applicant evaluated ‘reasonable worst case scenario’ traffic allowed in the existing RRFF-5 zoning district and in the proposed RI zoning district, specifically looking at the impact to SE Eagle Creek Rd and determined that there would be no significant impact on the existing transportation system as a result of the proposed Comprehensive Plan amendment and zone change. Detailed findings are available in the Goal 12 consistency findings section on page 10.

Clackamas County Engineering staff concurs with the conclusions in the submitted Traffic Impact Analysis Memo and determined that there will be no significant impact on the transportation system as a result of the proposed Comprehensive Plan Amendment and zone change due to the minimal level of traffic increases anticipated from the Comprehensive Plan/Zone change and industrial uses on site.

1202.03(C) Consistency Conclusion: The proposed zone change can be found compliant with 1202.03(C).

2. **1202.03(D)** *Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.*

The incremental increase in trips, determined by the submitted TIA, will not adversely affect the traffic service level of SE Eagle Creek Rd or nearby highways. The area is rural in nature and the amount of anticipated traffic from the proposed Comprehensive Plan amendment and zone change would not result in any adverse impacts to the safety of the transportation system. There are already industrial uses existing on site and the uses allowed in the proposed RI zoning would have a negligible impact to the transportation system and no significant impact on the safety of any nearby intersections or transportation networks. As such, this proposed zone change could be found consistent with Section 1203(D).

1202.03(D) Consistency Conclusion: The proposed zone change can be found compliant with 1202.03(D).

IV. SECTION OAR 660-004-0040 -- APPLICATION OF STATEWIDE PLANNING GOAL 14 TO RURAL RESIDENTIAL AREAS

This application is subject to the provisions of this OAR:

(1) The purpose of this rule is to specify how Goal 14 “Urbanization” applies to rural lands in acknowledged exception areas planned for residential uses.

(2) For purposes of this rule, the definitions in ORS 197.015, the Statewide Planning Goals and OAR 660-004-0005 shall apply. In addition, the following definitions shall apply:

...

(3)(a) This rule applies to rural residential areas.

(b) Sections (1) to (9) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family dwelling on such lot or parcel, where the application for partition or

subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

- (A) Land inside an acknowledged urban growth boundary;*
- (B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22;*
- (C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, divisions 21 or 27;*
- (D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;*
- (E) Resource land, as defined in OAR 660-004-0005(2);*
- (F) Nonresource land, as defined in OAR 660-004-0005(3);*
- (G) Marginal land, as defined in former ORS 197.247 (1991 Edition); or*
- (H) Land planned and zoned primarily for rural industrial, commercial, or public use.*

OAR 660-004-0040 is not applicable to this application based on the language in OAR 660-004-0040(3). Specifically, the application for the Comprehensive Plan Amendment is to allow for land zoned for rural industrial uses and, as such, the subject application would be exempt from the rule, and requirements to obtain a Goal 14 exception, per section OAR 660-004-0040(3)(c)(H) above. The subject site (made up of two separate properties) is located in a predominantly rural area, with an established rural character and pattern of development. The subject properties are bordered by other RRFF-5 zoned properties to the east and Rural Industrial zoned properties across Eagle Creek Rd. to the West. The existing on site uses are rural in nature and are appropriate for and limited to the needs and requirements of the local area to be served. Additionally, their type and intensity is consistent with those typically found in other rural areas of the County. The existing uses on site that would be permanently authorized through the subject Comprehensive Plan and Zone change would also not become a magnet for people outside the area since they are rural industrial uses and not expected to have significant traffic impacts. The existing uses on the property are clearly rural industrial and the Comprehensive Plan and associated zone change would only be authorizing those uses considered by the County's acknowledged Comprehensive Plan and Zoning Ordinance to be rural, and not urban, in nature. As such, Planning Staff finds the proposed land use plan designation of Rural Industrial is exempt from the provisions of this rule.

As such, Planning staff finds that the proposed Comprehensive Plan and zone change to allow for a Rural Industrial zoned property would constitute a rural, not urban, use. Therefore, a Goal 14 exception, and the application of OAR 660-004-010(1)(d)(D) and OAR 660-014-0040 would not apply to the subject proposal.

III. SUMMARY

This proposed Comprehensive Plan Amendment is found consistent with all applicable Statewide Planning Goals and Comprehensive Plan policies and the proposed zone change can be found consistent with all the criteria in Section 1202.03 of the ZDO. As such, staff recommends approval of both the Comprehensive Plan Amendment and Zone change, as submitted and found in Planning File numbers Z0079-20-CP and Z0080-20-ZAP.



Planning and Zoning
Development Services Building
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: <http://www.clackamas.us/planning/>

NOTICE OF INCOMPLETE APPLICATION

ORIGINAL DATE SUBMITTED: February 19, 2020
FILE NUMBER: Z0079-20-CP, Z0080-20-ZAP
APPLICATION TYPE: Comprehensive Plan Map Amendment and Zone Change
STAFF CONTACT: Melissa Ahrens; mahrens@clackamas.us; (503) 742-4519
DATE OF THIS NOTICE: March 6th, 2020

Via Email to:

Greg Ernst
P.O. Box 37
Eagle Creek, OR
97022
Greg.r.ernst@gmail.com

Staff has received your land use application for the property located at 23020 SE Eagle Creek, OR, 97022 (24E32 04901) for the Comprehensive Plan amendment and Zone change and have determined that the application cannot be deemed complete due to the following missing information:

1. Proposed Industrial Use Clarification. Please explain what the proposed uses are for the office building on Tax lot 4901 and how they relate to the business/industrial operations occurring on Parcel 4902.
2. Findings demonstrating adequate on-site sewage management capacity and water service. Pursuant to the requirements of Statewide Goal 6, Section 1307.07(C)(1)(c), Chapter 3, and Chapter 4 of the County's Comprehensive Plan, please submit information regarding the status and location of the following:
 - (a) The on-site septic system. Please demonstrate where the existing holding tank is located and detail whether it serves both legal properties involved in the zone change application or if there are separate septic systems in place. Please explain if the existing system(s) have capacity to handle industrial uses in general, as allowed in the Rural Industrial zoning district.
 - (b) Water service. Assuming a well is located on the property, please provide information as to the well's location and functionality. Additionally, please provide water rights information from the state, if available, or exemption information, if

usage is under 5,000 gallons/day. Please clarify if there is more than one well that serves both properties.

3. Findings related to all applicable Comprehensive Plan policies. The following required policies in Chapter 3 and 4 (Land Use) of the County's Comprehensive Plan have not been addressed. Please provide the following information:

- (a) 4.MM.1 Demonstrate how the existing, or future planned, industrial uses on site are not labor-intensive and are consistent with the rural character, rural development, and rural facilities and services. Please also provide more information about the industrial uses on each property and how they relate to each other. Include information about whether the entirety of both properties has been historically committed to industrial uses or just the distinct buildings etc.
- (b) Chapter 3 Policy No. 25. Please provide information, pictures, and documentation of any drainage areas or streams on site. County septic records indicate the presence of high groundwater on site and aerial imagery suggests that there may be a drainage channel on parcel 24E32 04901, as such please explain how industrial uses on site would comply with Policy 25.

Your application will be deemed complete if the Planning Division receives one of the following:

1. **All of the missing information; or**
2. **Some of the missing information and written notice from you (the applicant) that no other information will be provided; or**
3. **Written notice from you (the applicant) that none of the missing information will be provided.**

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beaver Creek Road, Oregon City, Oregon, 97045

- ☐ I am submitting the required information (attached); or.
- ☐ I am submitting some of the information requested (attached) and no other information will be submitted; or
- ☐ I will not be submitting the requested information. Please accept the application as submitted for review and decision.

Signed

Date

Print Name

Your application will be deemed complete if the Planning Division receives one of the following:

1. All of the missing information; or
2. Some of the missing information and written notice from you (the applicant) that no other information will be provided; or
3. Written notice from you (the applicant) that none of the missing information will be provided.

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beavercreek Road, Oregon City, Oregon, 97045

- ☒ I am submitting the required information (attached); or.
- ☐ I am submitting some of the information requested (attached) and no other information will be submitted; or
- ☐ I will not be submitting the requested information. Please accept the application as submitted for review and decision.

Signed

Print Name

Date

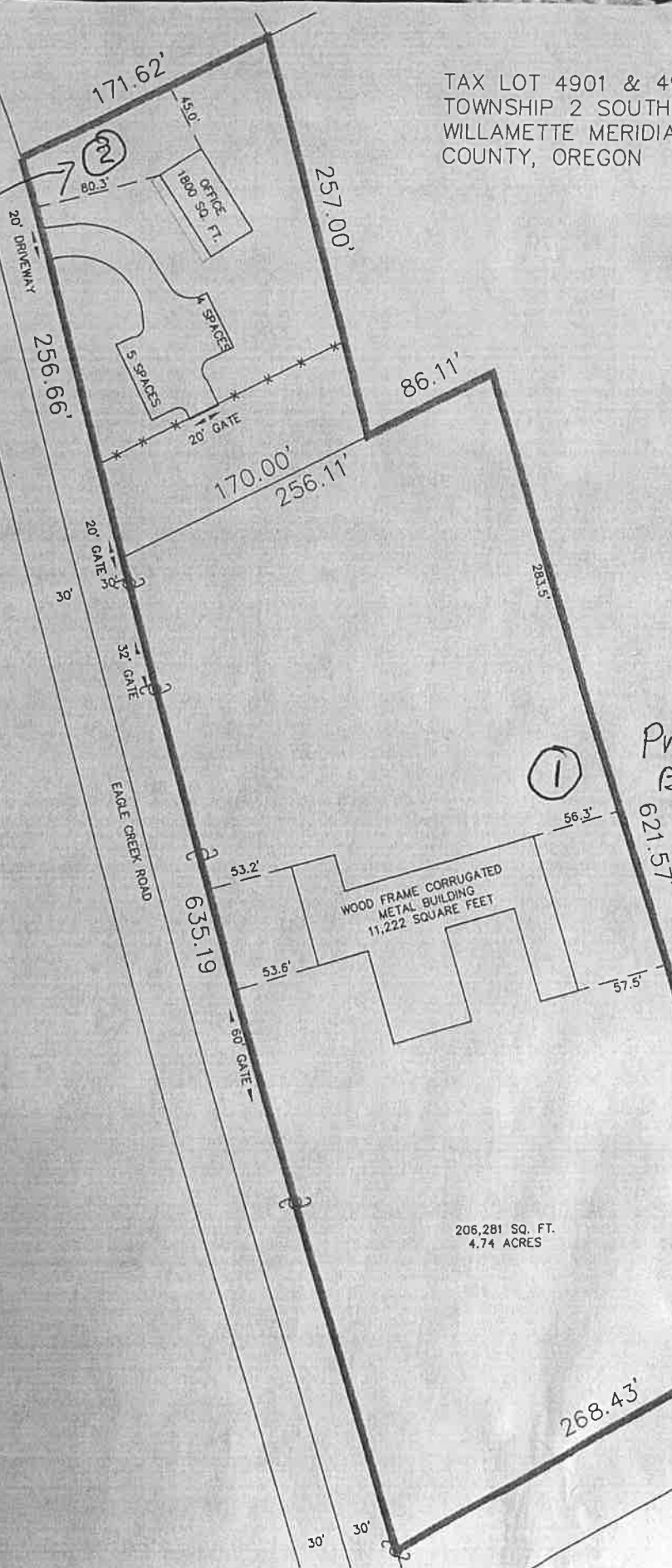
TAX LOT 4901 & 4902, SECTION 32,
TOWNSHIP 2 SOUTH RANGE 4 EAST,
WILLAMETTE MERIDIAN, CLACKAMAS
COUNTY, OREGON



SCALE 1" = 100'
AUG 10, 2011

*Secondary
well for
Irrigation*

*Primary well for
Both properties*





** Send Applicant receipt
pl ck# 1202*

CLACKAMAS COUNTY - PLANNING AND ZONING DIVISION
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045
503-742-4500 | ZONINGINFO@CLACKAMAS.US

Land Use Application

ZPAC 0124-19

For Staff Use Only	
Date received: <i>2/19/2020</i>	Staff initials: <i>SK</i>
Application type: <i>Comp + Zone chg</i>	File number: <i>cr</i>
Zone: <i>RRFF-5</i>	Fee: <i>\$6510.00</i> <i>4000 + 2510.20</i>
Violation #:	CPO/Hamlet: <i>Eagle Creek + Barton</i>

Applicant Information:

What is proposed? Zone Change from Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Industrial (RI) and concurrent Comp Plan amendment from Rural (R) to Rural Industrial (RI).

Name of applicant: Greg Ernst

Mailing address: P.O. Box 37

City Eagle Creek

State OR

Zip 97022

Applicant is (select one): ☒ Property owner ☐ Contract purchaser ☐ Agent of the property owner or contract purchaser

Name of contact person (if other than applicant): Jonathan Konkol, AICP

Mailing address of contact person: 11104 SE Stark St, Portland, OR 97216

Applicant #s: Wk: Cell: (503) 702-6800 Email: greg.r.ernst@gmail.com

Contact person #s: Wk: (503) 946-5027 Cell: (503) 515-7795 Email: jonathank@axisdesigngroup.com

Other persons (if any) to be mailed notices regarding this application:

Name	Address	Zip	Relationship
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Name	Address	Zip	Relationship
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SITE ADDRESS: 23030 & 23340 SE Eagle Creek Rd. Eagle Creek, OR 97022

TAX LOT #: T 24E R 32 Section Tax Lot(s) 04901 & 04902

Adjacent properties under same ownership:

Total land area: 4.72 acres

T <u> </u>	R <u> </u>	Section <u> </u>	Tax lot(s) <u> </u>
T <u> </u>	R <u> </u>	Section <u> </u>	Tax lot(s) <u> </u>
T <u> </u>	R <u> </u>	Section <u> </u>	Tax lot(s) <u> </u>

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

Greg Ernst

02/19/2020

Property owner or contract purchaser's name
(print)

Date

Greg Ernst
Owner or contract purchaser's signature

Greg Ernst

Applicant's name
(print)

Date

Applicant's signature

owner of Creekside Commercial Prop. LLC.



SUPPLEMENTAL APPLICATION
Zone Change
(May 2018)

APPLICATION INFORMATION

Name Greg Ernst Date 02/19/2020
File # ZPAC0124-19 Pre-Application File No. _____

FREQUENTLY ASKED QUESTIONS

What is a zone change?

The County Zoning & Development Ordinance (ZDO) allows for a variety of zoning districts within individual Comprehensive Plan land use designations. A zone change is a proposal to change from one zoning district to another zoning district as allowed by the Comprehensive Plan.

What is needed for approval?

All zone change permits are discretionary and MAY be permitted after evaluation according to criteria in the ZDO. The County must make written findings to support the decision. The applicant is responsible for providing evidence to support the zone change request consistent with the criteria listed in Section 1202 of the ZDO and relevant chapters of the Comprehensive Plan.

What are the chances for approval?

Staff cannot predetermine the decision on this or any application. A decision of approval or denial will only be made after the complete application is processed. This includes review of citizen and agency comments. The decision is based upon criteria relevant to this application as listed in the ordinance. In order to address the necessary criteria, the information requested in this supplemental application should be as thorough and as complete as possible.

Application process:

Zone change permits are subject to the Type III Land Use Application process and public notice. Public comments received from the Community Planning Organizations (CPOs), property owners, agencies, and other interested parties may affect the decision on the application. Special conditions may be attached to any approvals. Zone change applications are reviewed at a public hearing before the County Land Use Hearings Officer, unless a Comprehensive Plan Map Amendment is filed concurrently. In that case, both applications are reviewed at public hearings before the Planning Commission and Board of County Commissioners. The County's decision may be appealed to the Oregon Land Use Board of Appeals.

NOTE: A PRE-APPLICATION CONFERENCE is required prior to filing this application. For a copy of the Pre-Application Form, go to <http://www.clackamas.us/planning/documents/preapplicationconferencerequest.pdf>.

How long will it take to receive a final decision on an application?

Approximately 10 to 12 weeks for applications scheduled before the Land Use Hearings Officer.

Staff will attach the following pertinent information:

_____ Land Use Application	_____ Sample Plot Plan
_____ ZDO Section 1202	_____ Plan criteria for zone

Complete applications require the following:

1. Pre-application Conference must be completed.
2. Land Use Application Form: Information on applicant and land involved in the application. **Application must be signed by the property owner. (Attached)**
3. Supplemental Application: Information requested on this form. Please be as complete and thorough as possible. Use additional sheets of paper as necessary.
4. Preliminary Statement of Feasibility from the water provider, sanitary sewer provider, and surface water management authority – if applicable. (Attached)
5. Application Fee: \$ \$6,510 (Fee is nonrefundable upon decision or staff report; partial refund if withdrawn after notice; full refund if withdrawn prior to notice.)
6. Plot Plan drawn to scale on 8.5" x 14" or 11" x 17" sheet of paper showing the property and your proposal.
7. Transportation Impact Study.
8. Alternative Zoning Designations: An application for a zone change may include a request for the approval of an alternate zoning district designation if it is found that the applicant's preferred designation does not comply with the approval criteria, but that an alternate designation does. An alternate designation may be substituted only if the public notice required pursuant to Section 1307 includes all requested designations in its description of the applicant's proposal; therefore, any alternative zoning designations must be specifically identified by the applicant in the submitted application.

Justification criteria: See ZDO Section 1202 and other relevant ZDO sections for specific requirements. Then answer the following questions:

- A. How is approval of the proposed zone change consistent with the applicable goals and policies of the Comprehensive Plan?

Please refer to attached narrative

- B. If development under the proposed zone has a need for public services (sanitary sewer, surface water management, and water), how can the need be accommodated with the implementation of the applicable service provider's existing capital improvement plan? Consider the cumulative impact of the proposed zone change and development of other properties under existing zoning designations.

All required services currently exist and are adequate for proposed zone change.

The site is already in use as industrial and is adequately served.

- C. Explain why the transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:
- 1) Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a – Motor Vehicle Capacity Evaluation Standards for the Urban Area and 5-2b- Motor Vehicle Capacity Evaluation Standards for the Rural Area.
 - 2) The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
 - 3) It shall be assumed that the subject property will be developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 - 4) The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
 - 5) The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.
 - 6) A determination regarding whether submittal of a transportation impact study is required shall be made based upon the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 - 7) Notwithstanding (4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.

Please refer to attached narrative and transportation memo.

- D. Explain how the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

Please refer to attached narrative and transportation memo.

Questions? Contact Martha Fritzie, Senior Planner at 503-742-4529 or MFritzie@clackamas.us.



EAGLE CREEK ZONE CHANGE

Zone Change & Plan Amendment Application

February 19, 2020

PREPARED FOR:

Greg Ernst

23030 & 23340 SE Eagle Creek Road

Eagle Creek, OR 97022

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INTRODUCTION TO DEVELOPMENT PROJECT

i. General Information

Applicant:	Jonathan Konkol, AICP AXIS Design Group Architecture & Engineering, Inc. 11104 S.E. Stark Street Portland, OR 97216
Phone:	(503) 284-0988
Email:	JonathanK@axisdesigngroup.com
Owner:	Greg Ernst 37570 Reuben Lane Sandy, OR 97055
Phone:	(503) 402-6800
Project Name:	Eagle Creek Zone Change 23030 & 23340 SE Eagle Creek Road Eagle Creek, OR 97022
Application Type:	Zone Change & Plan Amendment
County:	Clackamas
State ID (Primary):	24E32 04902 & 24E32 04901
Alt Account #:	01637857 & 00683692
Site Size:	3.74ac + 0.98 = 4.72 Total
Use:	Rural Industrial
Zoning:	RRFF5

ii. Summary of Application

This application seeks a Zone Change and Comprehensive Plan Amendment for a parcel located in unincorporated Clackamas County.

The subject property is currently zoned Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Industrial (RI). The applicant is concurrently requesting an amendment to the Comprehensive Plan designation from Rural (R) to Rural Industrial (RI).

STATEWIDE PLANNING GOALS

Post-acknowledgment plan amendments (“PAPAs”) must comply with the Oregon Statewide Planning Goals. The Application requests a PAPA. Therefore, the City’s decision must explain why the Application is in compliance with the Goals. If a Goal is not applicable, the City must adopt findings explaining why that Goal is not applicable. The following responses provide findings explaining why the Application is in compliance with the Goals, or alternatively, why the Goals are not applicable to the Application.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

RESPONSE: Goal 1 requires local governments to adopt and administer programs to ensure the opportunity for citizens to be involved in all phases of the planning process. The County has adopted such a program for PAPAs, and it is incorporated within the Plan and ZDO, and has been acknowledged by the Land Conservation and Development Commission. The County’s program requires notification to citizens, agencies, neighbors, and other interested parties followed by multiple public hearings before the County makes a decision to approve or deny the Application. The County should find that, upon compliance with the County’s notice and hearing procedures, the County has reviewed the Application in a manner consistent with Goal 1. Therefore, Goal 1 is satisfied provided the County follows its acknowledged citizen involvement program.

Goal 2: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.

RESPONSE: Goal 2 requires establishing a land use planning process and policy framework as a basis for all land use decisions and requires an adequate factual base for all land use decisions. In the present case, the provisions of the Plan and the ZDO establish the land use planning process and policy framework for considering the Application. Furthermore, this narrative and its associated exhibits demonstrate that the Application satisfies all applicable substantive standards. Consequently, there is an adequate factual basis for the County’s decision.

Additionally, Goal 2 requires that the City coordinates its review and decision on the Application with appropriate government agencies. In its review of the Application, the County must provide notice and opportunity to comment to affected government agencies, including nearby cities and the State Departments of Land Conservation and Development and Transportation.

The County should find that Goal 2 is satisfied by the Application.

Goal 3: Agricultural Lands

To maintain and preserve agricultural lands.

RESPONSE: Goal 3 concerns protection of agricultural lands. The subject property does not include any agricultural lands, and approval of the Application will not impact any agricultural lands. While the site's zone, RRFF5 allows agricultural uses, the subject is in industrial use and this use predates the current zone designation. Therefore, the County should find that Goal 3 is not applicable to the Application.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient practices that assure the continuous growing and harvesting of forest tree species as the leading use of forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

RESPONSE: Goal 4 protects forest lands. The Property does not include any forest lands, and approval of the Application will not impact any forest lands. While the site's zone, RRFF5 allows forestry uses, the subject does not contain any forest resources. It is in industrial use and this use predates the current zone designation. Therefore, the City should find that Goal 4 is not applicable to the Application.

Goal 5: Natural Resources, Scenic and Historic Areas and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

RESPONSE: Goal 5 protects certain types of inventoried resources. The subject property does not include any inventoried Goal 5 resources, and approval of the Application will not impact any Goal 5 inventoried resources. Therefore, the County should find that Goal 5 is not applicable to the Application.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

RESPONSE: Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not violate (or threaten to violate) applicable state or federal environmental quality statutes, rules and standards. The development would dispose of stormwater in a manner consistent with Clackamas County's code. Compliance with Clackamas County's stormwater code will be a required condition for the granting of building permits, therefore this Goal will be met with regard to Water at a future date. This Application does not propose a specific development and therefore will not increase waste or process discharges. The County will assess discharges of any future development at the time a specific development application is proposed. Thus, the County should find that Goal 6 is not applicable to the Application.

Goal 7: Areas Subject to Natural Hazards

To protect people and property from natural hazards.

RESPONSE: There are no identified or inventoried natural hazards in the general area of the Property. Therefore, the County should find that Goal 7 is not applicable to the Application.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

RESPONSE: Goal 8 requires a local government to prepare an inventory of recreational needs and opportunities in the planning area based upon adequate research and analysis. There are no inventoried recreational facilities located on the Property or affected by the Application. The County should find that Goal 8 is not applicable to the Application.

Goal 10: Housing

To provide for the housing needs of the citizens of the state.

RESPONSE: Goal 10 and its implementing rules require each local government to inventory the supply of **buildable** residential lands and to ensure that the supply of such buildable lands meets the local government's anticipated housing needs. The subject property is not located inside an established Urban Growth Boundary (UGB). Approving the Application will not impact the acreage of residential lands in the adjacent city of Estacada. Therefore, the County should find that the application is consistent with Goal 10.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

RESPONSE: The proposal would change the zoning of the subject property to match its existing use, Rural Industrial. Therefore no additional urban services are needed to serve the property. Accordingly, the city should find that the Application is consistent with Goal 11.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

RESPONSE: Goal 12 is implemented by the Oregon Transportation Planning Rule ("TPR"), which requires local governments to determine whether or not a proposed PAPA will "significantly affect" an existing or planned transportation facility. OAR 660-012-0060(1).

1. If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

RESPONSE: This section is not triggered since the propose zone change will not impact or alter the functional classification of any existing or planned facility.

(b) Change standards implementing a functional classification system; or

RESPONSE: This section is not triggered since the propose zone change will not impact or alter the functional classification of any existing or planned facility.

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

RESPONSE: Action 1F.5 further establishes that, a small increase in traffic does not cause “further degradation” of the facility. Policy 1F defines a “small increase in traffic” in terms of certain thresholds based on average daily trips. In this case, the threshold for a small increase in traffic between the existing plan and the proposed amendment is no more than 400 daily trips. Since the net difference in worst-case trip generation is below 400, this section is not triggered.

Goal 13: Energy Conservation

To conserve energy.

RESPONSE: Goal 13 is directed toward the development of local government land management implementation measures which maximize energy conservation. The Application is consistent with Goal 13 because it codifies the existing use of the property, resulting in no net change of energy use. The subject property has been in continuous use

as rural industrial for over four decades and no change of use would occur. Therefore the Application is consistent with Goal 13.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

RESPONSE: Goal 14 calls for maintaining urban uses within urban growth boundaries. The subject property is currently in use as industrial. This use predates the zoning code. The proposed zone change will have no net impact on urbanization of land in Clackamas County. Moreover, the subject property is directly adjacent to other properties zoned rural industrial. Therefore, proposed rezone would not create an island of industrial land in a rural area. The County should find that the Application is consistent with Goal 14.

Goal 15: Willamette River Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River Greenway.

RESPONSE: Goal 15 only applies to lands along the Willamette River. The subject property is not located along the Willamette River or in the Willamette River Greenway. Therefore, the City should find that Goal 15 is not applicable to the Application.

Goal 16: Estuarine Resources

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

RESPONSE: Goal 16 concerns estuarine resources. The subject property does not include any designated estuarine resources, and the proposed amendment will not impact any estuarine resources. Therefore, the City should find that Goal 16 is not applicable to the Application.

Goal 17: Coastal Shorelands

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazards to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

RESPONSE: Goal 17 regulates coastal shorelands. The subject property does not include any designated coastal shorelands. Moreover, the proposed amendment will not impact any designated coastal shorelands. Thus, the City should find that Goal 17 is not applicable to the Application.

Goal 18: Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of a coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

RESPONSE: Goal 18 concerns beaches and dunes. The subject property does not include any designated beaches or dunes. Moreover, the proposed amendment will not impact any designated beaches or dunes. Thus, the City should find that Goal 18 is not applicable to the Application.

Goal 19: Ocean Resources

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic and social value and benefits to future generations.

RESPONSE: Goal 19 calls for the conservation of ocean resources. The subject property does not include any ocean resources. Therefore, the City should find that Goal 19 is not applicable to the Application.

CLACKAMAS COUNTY COMPREHENSIVE PLAN

Rural Industrial

GOALS

- To provide for the continuation of industrial uses in non-urban areas having an historical commitment to such uses.
- To provide for the industrial redevelopment of abandoned or diminished mill sites.
- To implement the goals and policies of this Plan for industrial development in Unincorporated Communities.

4.MM. Rural Industrial Policies

4.MM.1. The Rural Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with rural character, rural development, and rural facilities and services.

4.MM.2. The Rural Industrial (RI) zoning district implements the Rural Industrial plan designation.

4.MM.3. Areas may be designated Rural Industrial when the first, the second, or both of the other criteria are met:

4.MM.3.1. Areas shall have an historical commitment to industrial uses; or

4.MM.3.2. The site shall be an abandoned or diminished mill site, as defined in the Zoning and Development Ordinance, provided that only the portion of the site that was improved for the processing or manufacturing of wood products may be designated Rural Industrial; or

4.MM.3.3. Areas shall be located within an Unincorporated Community; and

4.MM.3.4. The site shall have direct access to a road of at least an arterial classification.

RESPONSE: The site has been historically committed to industrial use. The property was in industrial use prior to the creation of Oregon's statewide land use system. This use has not lapsed in that time. Since this criterion is satisfied, the property meets the conditions for eligibility for rezoning to Rural Industrial. Moreover, the fourth criterion is also met, as Eagle Creek Road is classified as a minor arterial according to the Clackamas County Transportation System Plan Map. Therefore the County should find that the subject property is eligible for a zone change to Rural Industrial.

Clackamas County Zoning & Development Ordinance

1202 ZONE CHANGES

1202.03 GENERAL APPROVAL CRITERIA

A zone change requires review as a Type III or IV application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.

RESPONSE: The proposed Zone Change and Comprehensive Plan Amendment would stabilize an existing industrial site and allow it to continue to function legally. The site has an historical commitment to industrial uses and is directly abutting other historically industrial properties.

As described above in responses to 4.MM Rural Industrial Policies, the proposed Comprehensive Plan Amendment and Zone Change is consistent with the applicable goals and policies of the Comprehensive Plan. Therefore, this criterion is satisfied.

- 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 under existing zoning designations shall be considered.

RESPONSE: Because the proposal does not entail any change of use, there will be zero cumulative impact to public services. The site is operating as an industrial property, and as such its service demands will not change. Therefore the County should find that the application satisfies this criterion.

- C. The transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:
1. Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*.
 2. The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
 3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 4. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
 5. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.
 6. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 7. Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.

RESPONSE: As described in the above response to Statewide Land Use Goal 12, as implemented by OAR 660-012-0060, the net increase in trips generated by the reasonable worst case scenario under the proposed RI zoning falls below the threshold of 400 daily trips necessary to trigger an analysis of traffic counts or intersection analysis.

Under the proposed RI zone, the site could reasonably generate up to 35 morning peak hour trips, 32 evening peak hour trips, and 252 average weekday trips. Accordingly, the net change in trip generation potential of the

site after the proposed rezone is projected to increase by 34 morning peak hour trips, 30 evening peak hour trips, and 234 average weekday trips.

Additionally, the proposed zoning would represent an even smaller deviation from current trips since the property has established pre-existing, non-conforming industrial status. Therefore, the County should find that these criteria are satisfied.

- D. Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.
-

RESPONSE: As noted above, the estimated change in trips under the reasonable worst case for the proposed RI zone is relatively small. It falls below the amount required by the statute to trigger an intersection analysis or traffic count. Therefore, the County should find that this condition is met.

EXHIBIT 1

Documentation of Existing Non-Conforming Industrial Use Status

**NOTICE OF DECISION -
ALTERATION OF A NONCONFORMING USE:
APPROVAL SUBJECT TO CONDITIONS**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd., Clackamas, OR 97015
Telephone: 353-4500/4501

TO: Applicant, Citizens Planning Organization, Agencies, and Property Owners within 500 feet of this application.

DATE: February 14, 2007

LAST DATE TO APPEAL: February 26, 2007

FILE NO.: Z0961-06-E

STAFF CONTACT: Rick McIntire (503-353-4516; rickm@co.clackamas.or.us)

APPLICANT: Craig Bauld, P.O. Box 399, Eagle Creek, OR 97022

OWNER OF PROPERTY: Eagle Creek Properties, LLC

LEGAL DESCRIPTION: T2S, R4E, Section 32, Tax Lots 4901 & 4902, W.M.

SITE ADDRESS: 23030 SE Eagle Creek Rd., Eagle Creek, OR

TOTAL AREA INVOLVED: Approximately 4.7 acres.

PRESENT ZONING: Rural Residential Farm/Forest (RRFF-5).

CITIZENS PLANNING ORGANIZATION FOR AREA:

Eagle Creek CPO
Phyllis Brinkley; 503-630-5858
P.O. Box 101
Eagle Creek, OR 97022

PROPOSAL: An alteration of a nonconforming use, an excavation contractor's office and adjoining truck and equipment storage yard and maintenance shop, to permit a 1440 s.f. addition to the north end of the existing 1800 s.f. office building on tax lot 4901. The applicant does not propose any other operational changes or an increase in the number of employees.

FILE NO. Z0961-06-E, Bauld

1

FINDINGS: The Planning Division has reviewed this application for an alteration of a nonconforming use. This application is subject to Section 1206 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division has reviewed this section of the ZDO with respect to this proposal and makes the following findings:

1. The applicant is requesting approval of an alteration of a nonconforming use, an excavation contractor's office and adjoining truck and equipment storage yard and maintenance shop, to permit a 1440 s.f. addition to the north end of the existing 1800 s.f. office building on tax lot 4901. The applicant does not propose any other operational changes or an increase in the number of employees; the proposed addition will provide additional work and storage space for the existing office staff of the business.

The subject property is located on the easterly side of SE Eagle Creek Rd., approximately 1500 ft. south of the intersection of Eagle Creek Rd. and Hwy 211 in the Eagle Creek area. Tax lot 4901 is currently developed with an 1800 s.f. office building, access drive, and parking area. The southerly portion of tax lot 4901 and the entirety of tax lot 4902 is developed with a maintenance/repair shop and vehicle and equipment storage yard.

2. Pursuant to subsection 1206.05B(2) of the ZDO, the applicant must first verify that the existing use(s), structure(s) and/or other physical improvements were established as a protected nonconforming use as defined in Sec. 202 of the ZDO. Sec. 202 of the ZDO defines a "Nonconforming Use" as:

"A use of any building, structure or land allowed by right when established or that obtained a required land use approval when established but, due to a change in the zone or zoning regulations, is now prohibited in the zone."

The subject property is currently zoned RRFF-5. This designation was applied on August 13, 1976. Prior to that date, the subject property was not zoned and not subject to restrictive zoning/land use regulations. The use and development of property in the RRFF-5 zoning district is subject to the provisions of Sec. 309 of the ZDO. The existing and proposed uses of tax lots 4901 and 4902 are not permitted as primary, accessory or conditional uses in the RRFF-5 zone.

3. In order to demonstrate the establishment of a nonconforming use, the applicant must demonstrate the following: (1) that the use(s) and structure(s) were established prior to the effective date of the initial zoning of the property; or (2) that the use(s) and structure(s) were allowed by right under the zoning applicable at the time of establishment; or (3) that a required land use permit; e.g. unzoned area development permit, conditional use permit, etc., was obtained from the County to establish the use(s) and structure(s) prior to a change in zoning regulations pursuant to subsection 1206.06B of the ZDO.

The staff has reviewed the County Planning Division permitting records to determine the status of this use. The staff found that the existing office building was approved as an alteration of a nonconforming use under Planning file no. Z1176-95-E. While the permit is not entirely clear on the subject, it appears that the office was approved as a permitted expansion of the existing

nonconforming use on tax lot 4902. From 1972 to 1992, that property (formerly part of the original tax lot 4900 prior to the platting of the Eagle's no. 1 subdivision) had been used as the storage and maintenance facility for the Leathers Oil Co. and prior to that had been a truck repair facility. Leathers Oil Co. used the site for storage of oil delivery trucks and miscellaneous equipment and as a maintenance shop facility. The current use, an excavation contractor's storage and maintenance facility moved onto the site shortly after Leathers Oil Co. vacated the facility. Tax lot 4901, the site of the exiting office building, had been developed with a single family dwelling which may have also been used to house Leathers Oil Co. activities. That structure was demolished to make way for the office building upon approval of Z1176-95-E.

Conclusion: The record establishes that the excavation contractor's office, maintenance/repair and vehicle and equipment storage facility located upon tax lots 4901 and 4902 has been established as a nonconforming use, being a County-approved alteration of Leathers Oil Co. use that was established prior to the adoption of zoning regulations on August 13, 1976. This criterion is satisfied.

4. If the applicant proves that nonconforming use status has been established, the nonconforming use may be continued pursuant to subsec. 1206.01 of the ZDO. Subsec. 1206.01 of the ZDO states:

“A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located.”

5. If the applicant has demonstrated that a nonconforming use has been lawfully established, the applicant must also provide evidence as to the nature, extent, existence and continuity of the nonconforming use and that the nonconforming use has not been discontinued for any period exceeding twelve (12) consecutive months during the 20-year period immediately preceding the date of the application for verification pursuant to subsec. 1206.02 of the ZDO and ORS 215.130(11). Subsec. 1206.02 of the ZDO states:

“If a nonconforming use is discontinued for a period of more than twelve (12) consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of the Ordinance and other regulations applicable at the time of the proposed resumption.”

Based upon the land use permit record and the on-going nature of the applicant's use since the early 1990's, the staff concludes that the nonconforming use of tax lots 4901 and 4902 has not been discontinued for any period in excess of twelve (12) consecutive months since the adoption of restrictive zoning regulations or during the 20-year period preceding the date of filing of this application.

6. Pursuant to subsection 1206.05B(1) of the ZDO, in order to approve this request, the proposed alteration of the nonconforming use, structure and/or other physical improvements shall have no greater adverse impact upon the neighborhood than the existing use, structure(s) and/or physical improvements. The Planning Director, or designate, may impose conditions designed

to mitigate any potential additional adverse impacts pursuant to subsection 1206.05B(3) of the ZDO.

7. The subject property is located in an area with a mix of commercial, industrial, small-scale farm and rural residential uses. The site is across the street from the Eagle Foundry facility and adjacent to an approved commercial RV storage facility to the north and a private rifle range to the south. The Eagle's Nest private airport is located a short distance to the east.
8. The applicant proposes to construct a 1440 s.f. addition to the north end of the existing office building to provide additional work and storage space for the existing office staff. The applicant has not proposed any additional operational changes such as days and hours of operations or an increase in the number of on-site employees. With the exception of the additional building area, the use will not be changed.
9. The 24 ft. by 60 ft. addition will be attached perpendicular to the existing building along the northerly property line and will have a similar design, siding and paint scheme as the existing structure. The only off-site use in proximity to the proposed addition will be the backsides of commercial storage buildings that have been approved on the adjoining property to the north. Residential uses to the east are located on a terrace approximately 20-30 ft. higher than the site elevation and any visual impacts should be mitigated by existing trees along the intervening creek corridor. As noted above, no operational changes are proposed and no additional traffic is expected although some increase would not cause any additional traffic capacity or safety issues on SE Eagle Creek Rd.
10. **Conclusion:** The Planning Div. staff finds that the proposed alteration of a nonconforming use will not cause additional adverse impacts upon the surrounding area when compared with the impacts of the existing nonconforming use.

DECISION: Approval with conditions. Based upon the Findings discussed above, it is the decision of the Clackamas County Planning Director, by his designate, to approve this application for an alteration of a nonconforming use subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. This decision is based upon the application, supplemental information, floor plan site plan submitted by the applicant, the Findings discussed above and the conditions of approval contained herein. Any changes to the proposal, except as required by these conditions and approved by the Planning Div., shall be reviewed by the Planning Div. as a separate application.
2. The days and hours of operation shall be limited to Mondays through Saturdays between the hours of 7:00 am to 6:00 pm consistent with condition of approval no. 5 of Planning file no. Z1176-95-E. No operational changes to the use except the larger office area are permitted herein.

3. Prior to the commencement of construction and occupancy of the office addition, the applicant shall obtain any Building, Plumbing, Electrical, Mechanical or other specialty code permits deemed necessary by the County Building Codes Division for the restaurant expansion.
4. Prior to occupancy of the addition, the applicant shall obtain approved final inspections and a certificate of occupancy from the County Building Codes Div.
5. The applicant shall comply with all requirements of the Boring Fire District no. 59 Fire Marshal regarding fire protection water supply, emergency vehicle access and any other fire and life safety requirements.
6. Prior to the issuance of Building Permits, the applicant shall obtain approval of the means of on-site sewage disposal (or holding tank contracts) from the County Soils Section and/or State DEQ, as appropriate.
7. Compliance with these conditions of approval is mandatory and non-compliance may be cause for revocation of this permit.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215
REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY
FORWARDED TO THE PURCHASER.**

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS \$250.00. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY 5:00 P.M. ON THE LAST DATE TO APPEAL WHICH IS **FEBRUARY 26, 2007**. THIS DECISION IS NOT EFFECTIVE UNTIL THE DAY AFTER THE APPEAL DEADLINE PROVIDED THAT NO APPEAL IS FILED.

EXHIBIT 2

Transportation Analysis Memo



1321 SW 4th Ave., Suite 400
Portland, OR 97204
503.248.0313
lancastermabley.com

Memorandum

To: Jonathan Konkol
From: Jessica Hajar
Date: February 4, 2020
Subject: 23030 & 23340 SE Eagle Creek Road Zone Change Scoping

Introduction

This memorandum describes the worst-case trip generation analysis conducted for the proposed zone change of a property located at 23030 & 23340 SE Eagle Creek Road in Clackamas County, Oregon.

The purpose of this memorandum is to examine the change in the trip generation potential of the site following the changing in zoning from Rural Residential Farm and Forest (RRFF-5) to Rural Industrial (RI). The study will review the morning peak hour, evening peak hour, and average daily trip generation potentials of the site under both zones, and will address the Transportation Planning Rule (TPR) to ensure the transportation system is capable of supporting any changes in traffic intensity resultant of the proposed zone change.

Location & Project Description

The project site is located east of Highway 224, outside of the Urban Growth Boundary in Clackamas County. The site includes two lots, which encompass a total of 4.72 acres. Each lot has one driveway located along SE Eagle Creek Road. Figure 1 represents an aerial image of the nearby vicinity with the subject properties outlined in red.



Figure 1: Aerial Image of Site

Site Trips

The subject site is currently zoned as Rural Farm and Forest (RRFF-5) and is proposed for a change in zoning to Rural Industrial (RI). To determine the impacts of the proposed change in zoning, reasonable “worst-case” development scenarios for the existing and proposed zones were determined utilizing data for the most traffic intensive uses permitted within each zone.

Trip Generation – Proposed Zone Change

Existing RRFF-5 Zone

To determine the reasonable “worst-case” development scenario under the existing zoning, Clackamas County Zoning and Development Code Section 316 was referenced and compared to land uses provided within the *Trip Generation Manual*. Based on an assessment of permitted uses under the RRFF-5 zone, data from land use code 210, *Single Family Dwelling*, was used based on the number of units.

Upon inspection of Table 316-2: *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*, the RRFF-5 zone has a minimum average lot size of five acres for all lots or parcels in a subdivision.

Since the subject site is comprised of two lots, it is assumed the worst-case trip generation under this zone would be generated by two single family homes.

Proposed RI Zone

To determine the reasonable “worst-case” development scenario under the proposed zoning, Clackamas County Zoning and Development Code Section 604 was referenced and compared to land uses provided within the *Trip Generation Manual*. Based on an assessment of permitted uses under the RI zone, data from land use 110, *General Light Industrial*, were used based on the square footage of the building.

Per Table 604-2 – *Dimensional Standards in the RI District*, there is no minimum lot size for the zone, but the maximum building floor space per Industrial Use in an Unincorporated Community is 40,000 square feet. This is a reasonable building size assumption for the 3.97 acres lot to the south. Since the northern lot size is approximately 42,689 square feet, it was assumed the building size for this lot would be 10,672 square feet, or 25% of the total lot area. This takes into account any area needed for landscaping, setbacks, parking, etc.

The trip generation calculations show that under existing RRFF-5 zone, the subject site could reasonably generate up to one morning peak hour trip, two evening peak hour trips, and 18 average weekday trips. Under the proposed RI zone, the site could reasonably generate up to 35 morning peak hour trips, 32 evening peak hour trips, and 252 average weekday trips. Accordingly, the net change in trip generation potential of the site after the proposed rezone is projected to increase by 34 morning peak hour trips, 30 evening peak hour trips, and 234 average weekday trips.

The trip generation estimates are summarized in Table 1. Detailed trip generation calculations are included in the attached technical appendix.



2/4/2020
Page 2 of 4

Table 1: Trip Comparison Summary

ITE Code	Size	Morning Peak Hour			Evening Peak Hour			Weekday
		In	Out	Total	In	Out	Total	Total
Existing RRFF-5 Zone								
210	2 lots	0	1	1	1	1	2	18
Proposed RI Zone								
110	50,672	31	4	35	4	28	32	252
Net Trip Generation								
		31	3	34	3	27	30	234

Trip Generation – Proposed Use

The proposed use of the property includes two buildings which are used for operation of a private sanitation company. The buildings are sized approximately 10,500 square feet and 2,160 square feet. Data from land use code 110, *General Light Industrial*, were used to estimate trip generation based on the square footage of the buildings.

Table 2: Trip Generation Proposed Use

ITE Code	Size	Morning Peak Hour			Evening Peak Hour			Weekday
		In	Out	Total	In	Out	Total	Total
110	12,660 sq ft	8	1	9	1	7	8	62

As shown in the table above, the estimated trip generation of the proposed use is less than 10 trips during each peak hour and 62 trips each weekday.

Transportation Impact Study Scope

The scope of the transportation impact study is projected to include the worst-case trip generation summary of the proposed zone change and an analysis of the Transportation Planning Rule (Oregon Administrative Rule 660-012-0060). Since the net increase in site trips associated with the proposed zone change is small, traffic counts and intersection analysis are not recommended in conjunction with this scope.



2/4/2020
Page 3 of 4

Appendix



2/4/2020
Page 4 of 4

1e

TRIP GENERATION CALCULATIONS

Land Use: General Light Industrial
Land Use Code: 110
Setting/Location: General Urban/Suburban
Variable: 1,000 Square Feet of Gross Floor Area
Variable Quantity: 50.67

AM PEAK HOUR

Trip Rate: 0.70

	Enter	Exit	Total
Directional Distribution	88%	12%	
Trip Ends	31	4	35

PM PEAK HOUR

Trip Rate: 0.63

	Enter	Exit	Total
Directional Distribution	13%	87%	
Trip Ends	4	28	32

WEEKDAY

Trip Rate: 4.96

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	126	126	252

SATURDAY

Trip Rate: 1.99

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	50	50	100

Source: TRIP GENERATION, Tenth Edition

1e

TRIP GENERATION CALCULATIONS Existing Conditions

Land Use: Single-Family Detached Housing
Land Use Code: 210
Setting/Location: General Urban/Suburban
Variable: Dwelling Units
Variable Value: 2

AM PEAK HOUR

Trip Rate: 0.74

	Enter	Exit	Total
Directional Distribution	25%	75%	
Trip Ends	0	1	1

PM PEAK HOUR

Trip Rate: 0.99

	Enter	Exit	Total
Directional Distribution	63%	37%	
Trip Ends	1	1	2

WEEKDAY

Trip Rate: 9.44

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	9	9	18

SATURDAY

Trip Rate: 9.54

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	10	10	20

Source: Trip Generation Manual, Tenth Edition

1e

TRIP GENERATION CALCULATIONS

Land Use: General Light Industrial
Land Use Code: 110
Setting/Location: General Urban/Suburban
Variable: 1,000 Square Feet of Gross Floor Area
Variable Quantity: 12.66

AM PEAK HOUR

Trip Rate: 0.70

	Enter	Exit	Total
Directional Distribution	88%	12%	
Trip Ends	8	1	9

PM PEAK HOUR

Trip Rate: 0.63

	Enter	Exit	Total
Directional Distribution	13%	87%	
Trip Ends	1	7	8

WEEKDAY

Trip Rate: 4.96

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	31	31	62

SATURDAY

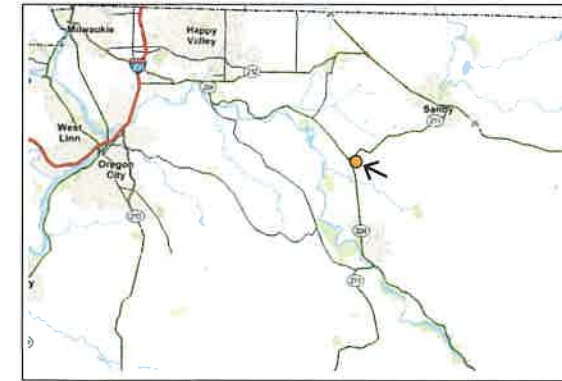
Trip Rate: 1.99

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	13	13	26

Source: TRIP GENERATION, Tenth Edition

S:\Projects\2019 Projects\19-041_Creekside_CommercialZone_Change\172_CurrentCAD\Xref\Bus Site Plan.dwg © Pk Date: Jan 30 20 © Time: 11:45 AM

1 VICINITY MAP
SCALE: 1" = 400'



2 REGIONAL MAP
SCALE: NTS

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DESIGN GROUP.



11104 S.E. STARK STREET
PORTLAND, OR 97216
T: 503.284.0988 | F: 503.546.9276

EAGLE CREEK
INDUSTRIAL
23030 & 23340 SE EAGLE CREEK ROAD,
EAGLE CREEK, OR

REVISIONS		
No.	Description	Date

DRAWN BY: JRK
CHECKED BY: TRB
JOB NO: 19-041
DATE: 01/30/2020
ISSUED FOR: LAND USE
SHEET TITLE
VICINITY
SHEET NO.

A-001

S:\Projects\2019 Projects\19-041_CreekSide_Commercial_Zone_ChangeF_Drawing\F2_Current\CAD\WorkBase Site Plan.dwg © Plot Date: Feb 5 20 © Time: 1:48 PM



1 SITE PLAN

SCALE: 1" = 100'



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DESIGN GROUP
ARCHITECTURE & ENGINEERING, INC.

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PORTLAND, OR 97216
T: 503.284.0988 | F: 503.546.9276

EAGLE CREEK INDUSTRIAL
23030 & 23340 SE EAGLE CREEK ROAD,
EAGLE CREEK, OR

REVISIONS

No.	Description	Date

DRAWN BY: JRK

CHECKED BY: TRB

JOB NO: 19-041

DATE: 01/30/2020

ISSUED FOR: LAND USE

SHEET TITLE

SITE PLAN

SHEET NO.

A-002

S:\Projects\2019 Projects\19-041_Cretside_Commmercial_Zone_Change\F_Drawing\12_Current\CAD\Xbase Site Plan.dwg © Plot Date: Jan 30 20 © Time: 11:42 AM



1 AERIAL - EXISTING FEATURES
SCALE: 1" = 100'



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AXIS
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ARCHITECTURE & ENGINEERING, INC.
11104 S.E. STARK STREET
PORTLAND, OR 97216
T: 503.284.0968 | F: 503.546.9276

**EAGLE CREEK
INDUSTRIAL**
23030 & 23340 SE EAGLE CREEK ROAD,
EAGLE CREEK, OR

REVISIONS

No.	Description	Date

DRAWN BY: JRK
CHECKED BY: TRB
JOB NO: 19-041

DATE: 01/30/2020
ISSUED FOR: LAND USE

SHEET TITLE
EXISTING FEATURES

SHEET NO.
A-003



PRELIMINARY STATEMENT OF FEASIBILITY

(January 2018)

Instructions to Applicant

- This form is to be completed by the applicable sanitary sewer service provider, surface water management authority and water service provider.
- It is the applicant's responsibility to provide a copy of this form to **each** service provider. Attach the completed forms as part of the land use application submittal for a development. Where there is no surface water management service district, this form is to be provided to the Clackamas County Department of Transportation and Development, Engineering Division.
- A service provider may require the submission of detailed plans and/or engineering data prior to determining whether a Preliminary Statement of Feasibility will be issued. Contact the service providers for details.
- Completed forms are required for design review, subdivisions, partitions and conditional uses, and these applications will not be deemed complete until the completed forms are received by the Planning Division.
- The forms must be dated no more than one year prior to submittal of a complete land use application.
- Forms are not required for on-site sewage disposal systems or water service by private well.

Instructions to Service Provider

- A development is proposed within your service area. Please complete the attached Preliminary Statement of Feasibility to indicate whether adequate service can be provided to this development.
- If adequate service can be provided only with the implementation of certain conditions of approval, you may attach such conditions to this statement. Completion of this preliminary statement of feasibility does **not** imply that additional requirements (e.g. plan submittals) may not be imposed by your agency once a land use application is filed.
- The Planning Division will continue to provide notice to you of land use applications for property within your service area. This will allow you to determine whether the submitted development proposal differs from the plans reviewed by your agency in conjunction with the completion of this statement. This will also allow you to provide additional comments as necessary.



SCOTT CAUFIELD
BUILDING CODES ADMINISTRATOR

BUILDING CODES DIVISION

DEVELOPMENT SERVICES DIVISION
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

March 27, 2012

EAGLE CREEK PROPERTIES INC
PO BOX 399
EAGLE CREEK OR 97022

Subject: Violations of the Clackamas County Building Code, the Clackamas County Zoning and Development Ordinance, and the Clackamas County Solid Waste and Waste Management Code

Site Address: 23340 SE Eagle Creek Rd, Eagle Creek OR 97022

Legal Description: T2S, R4E, Section 32, Tax Lot 4902

You were notified by correspondence dated February 15, 2012, in regards to several alleged violations of the Clackamas County Code. When the County did not hear from you, staff conducted an inspection of the subject property from off site on March 26, 2012. The inspection confirmed the following violations:

1. A diesel repair and maintenance shop has been converted into a wood shop without a required Change of Occupancy/Use building permit and approved final inspection.
2. An excavation truck and equipment storage yard and maintenance shop has been converted into a passenger and light vehicle storage yard and woodworking business without a required approved Alteration of a Non-Conforming Use application.
3. Several occupied recreational vehicles without required land use approval.
4. Numerous inoperable and/or non currently licensed vehicles stored out-of-doors and visible from off site.

The Subject property is currently zoned as a Rural Residential Farm Forest 5-Acre District (RRFF-5). In this zone, the alteration of an pre-existing Non-Conforming Use without an application approved by the Clackamas County Zoning and Planning Division, and the occupancy of recreational vehicles without land use approval, constitutes separate and multiple violations of Title 12 of the Clackamas County Code as it pertains to the Application and Enforcement of section 401 of the Clackamas County Zoning and Development Ordinance.

March 27, 2012

Page 2

Additionally, the conversion of a diesel truck equipment and maintenance shop building without a required Change of Occupancy/Use building permit and an approved final inspection from the Clackamas County Building Codes Division constitutes a violation of Chapter 9.03 of the Clackamas County Code as it pertains to the Application and Enforcement of the Clackamas County Building Code.

Lastly, the accumulation of solid wastes including inoperable and/or non-currently licensed vehicles, constitute a violation of Chapter 10.03 of the Clackamas County Code as it pertains to the Application and Enforcement of the Clackamas County Solid Waste and Waste Management Code.

It is requested that the following alternatives be utilized *within fifteen (15) days* of the date of this letter:

For the Commercial Woodworking Business and the outdoor storage of inoperable and/or non-currently licensed vehicles (choose one):

1. Submit an application for an Alteration of a Non-Conforming Use to include the operation of the woodworking business and the outdoor storage of inoperable and/or non-currently licensed vehicles to the Clackamas County Planning and Zoning Division, *or*,
2. Relocate the woodworking business from the subject property to a compatibly zoned property and remove all inoperable and/or non-currently licensed vehicles from the subject property.

For the occupied recreational vehicles:

1. Vacate and remove all recreational vehicles from the subject property.

If you have any questions concerning these building or electrical permit requirements, please contact the Building Codes Division Public Service Representative at 503-742-4739. If you have any questions concerning land use permit requirements, please contact the Planning and Zoning Division Public Service Representative at 503-742-4500. If you have any questions concerning solid waste, please contact the Office of Sustainability Public Service Representative at 503-557-6363, or you may stop by our offices at the Development Services Building, 150 Beaver Creek Rd., Oregon City, OR 97045 between the hours of 9:00 a.m. and 4:00 p.m.

Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may waive all or part of the \$75 per month administrative fee and penalties.

Please be advised that failure to contact this office and to resolve the aforementioned violation(s) will result in one or more of the following; 1) the imposition of a citation, 2) assessment of a \$ 75 monthly administrative fee or the cost of enforcement and/or 3) referral of this matter to the County Compliance Hearings Officer for legal action.

March 27, 2012

Page 3

The Clackamas County Code provides for citation amounts of up to \$500 and additional civil penalties of up to \$3500 for *each day* of noncompliance. Fine amounts and civil penalties are assessed for each cited violation and may be assessed separately against each named party. In addition, the Compliance Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and/or responsible parties.

Unpaid citation amounts, administrative fees, civil penalties and abatement costs may be recorded as a lien against property owned by any of the parties either jointly or separately. If you do not own real property a lien may be recoded against you personally.

Also, be advised that non-compliance with a Hearings Officer's Order may result in the matter being referred to County Counsel for legal action in Circuit Court. Circuit Court can impose additional penalties or other sanctions as they deem appropriate.

Lastly, recurrences of abated violations will result in the issuance of a citation without prior notice.

Please feel free to contact me if you have any further questions. My direct telephone number is 503-742-4459 and email deanbro@co.clackamas.or.us.

A handwritten signature in black ink, appearing to read 'Dean A. Brown', with a stylized flourish at the end.

Dean A. Brown
Code Enforcement Specialist
Clackamas County Code Enforcement Section

BARCLAY LISA M	30221 SE LEATHERS LN	EAGLE CREEK	OR
BARNEY JEFFREY L	PO BOX 549	EAGLE CREEK	OR
CHEN HUAFEN	23548 SE EAGLE CREEK RD	EAGLE CREEK	OR
CREEKSIDE COMMERICAL PROPERTIES LLC	PO BOX 37	EAGLE CREEK	OR
EAGLE CREEK R V LLC	23000 SE EAGLE CREEK RD	EAGLE CREEK	OR
EAGLE FOUNDRY CO	PO BOX 250	EAGLE CREEK	OR
EAGLE FOUNDRY CO INC	PO BOX 250	EAGLE CREEK	OR
ERNST GREGORY R	PO BOX 37	EAGLE CREEK	OR
ESTACADA CEMETERY MAINT	PO BOX 1390	ESTACADA	OR
ESTACADA ROD&GUN CLUB	PO BOX 33318	PORTLAND	OR
GOMEZ KATHERINE N	7802 DAYTON AVE N	SEATTLE	WA
HATLEY RALPH A TRUSTEE	29388 SE HEIPLE RD	EAGLE CREEK	OR
HERITAGE PROPERTIES & CONSTRUCTION LLC	PO BOX 2340	ESTACADA	OR
HUGGINS STEPHEN M	22784 SE EAGLE NEST LN	EAGLE CREEK	OR
JACKNIFE-ZION-HRS HIST SOC	PO BOX 1040	ESTACADA	OR
RICHARDS DAVID S III & CAROLINE L	22826 SE EAGLE NEST LN	EAGLE CREEK	OR
STEWART JOHN G JR & DEBRA D	PO BOX 358	EAGLE CREEK	OR

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Mon 6/1/2020 11:03 AM

Greg Ernst <greg.r.ernst@gmail.com>

Re: Incomplete Notice For File No. Z0079-20-CP and Z0080-20-ZAP

To: Ahrens, Melissa

You forwarded this message on 7/2/2020 4:15 PM.

Message

signed app.jpg

map ccp for well layout.jpg

Hi Melissa, the company that was processing this application has not been available since the Covid began. So I have prepared a response.

To item 1. The office building on tax lot 4901 has historically and currently used in conjunction with the operations on property 4902. Currently that is Speedy Septic that occupies the office building and the large lot parcel.

Item 2. a. There is a holding tank on tax lot 4901. I believe county file # STO72805 (this # is on a holding tank report). This holding tank serves both parcels. Speedy Septic handles all septic maintenance and services on both properties. This system historically handled large office and field staffs after installation by Rain County Construction a couple decades ago. The system has demonstrated capacity to handle current and past industrial uses.

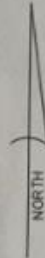
Item 2. b. There are two wells. Each parcel has a well. Please see attached drawing of property. There is a primary well that serves all buildings on both parcels item 1 and a secondary well that serves currently as irrigation or water for the lawn on parcel 4901. The wells have been existing for at least 30 years.

Item 3. a. Existing uses on this site were approved by conversations with the county. Permits were applied for and approved for a woodworking shop many years ago. Woodworking shops are categorized as "rural industrial." Also Speedy Septic was approved for occupancy on this site by Rick McIntire through phone conversations and emails. Mr. McIntire deemed Speedy Septic as a consistent rural industrial use for this property. All uses on this property have been consistent with the original variance placed upon the property in 1964 for Leathers Oil Company as a truck and trailer fueling maintenance and storage facility. Lot 4901 used to have a house used for the office for Leathers Oil but was demolished and replaced with the current office building by Rain Country Construction. Rain Country Construction used the new building as the office for its operations, which was heavy equipment staging, repairs and maintenance along with storage of materials used for heavy construction.

Item 3. b. There is a culvert on the rear of the property that handles excess rain water. It has existed for at least approximately 30 years and comes to daylight on the rear of parcel 4901. The high water table is the reason that there is a holding tank for sanitation that needs to be serviced regularly as a drain field for sanitation was not feasible. Historical usage is unchanged.

Please contact me if you have any questions. Greg 503-702-6800. or by email. Please do not mail any thing to my mailing address as I have been out of town for quite some time and will return towards the end of June.

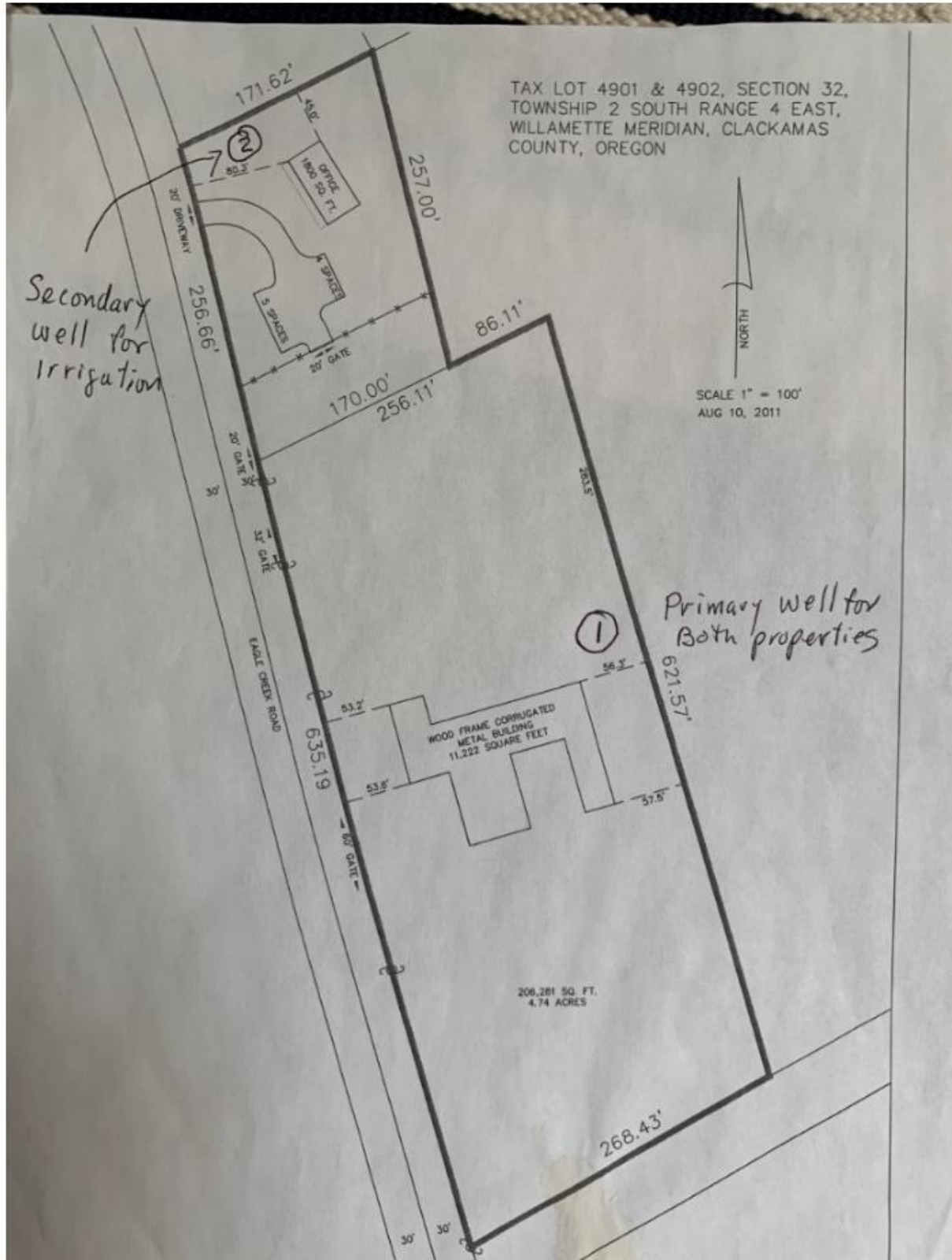
TAX LOT 4901 & 4902, SECTION 32,
TOWNSHIP 2 SOUTH RANGE 4 EAST,
WILLAMETTE MERIDIAN, CLACKAMAS
COUNTY, OREGON



SCALE 1" = 100'
AUG 10, 2011

*Secondary
well for
Irrigation*

*Primary well for
Both properties*



Your application will be deemed complete if the Planning Division receives one of the following:

1. All of the missing information; or
2. Some of the missing information and written notice from you (the applicant) that no other information will be provided; or
3. Written notice from you (the applicant) that none of the missing information will be provided.

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beaver Creek Road, Oregon City, Oregon, 97045

- ☒ I am submitting the required information (attached); or.
- ☐ I am submitting some of the information requested (attached) and no other information will be submitted; or
- ☐ I will not be submitting the requested information. Please accept the application as submitted for review and decision.

Signed

Print Name

Date

Exhibit List:

1. Property Aerial
2. Tax Map
3. Site Plan
4. Notices

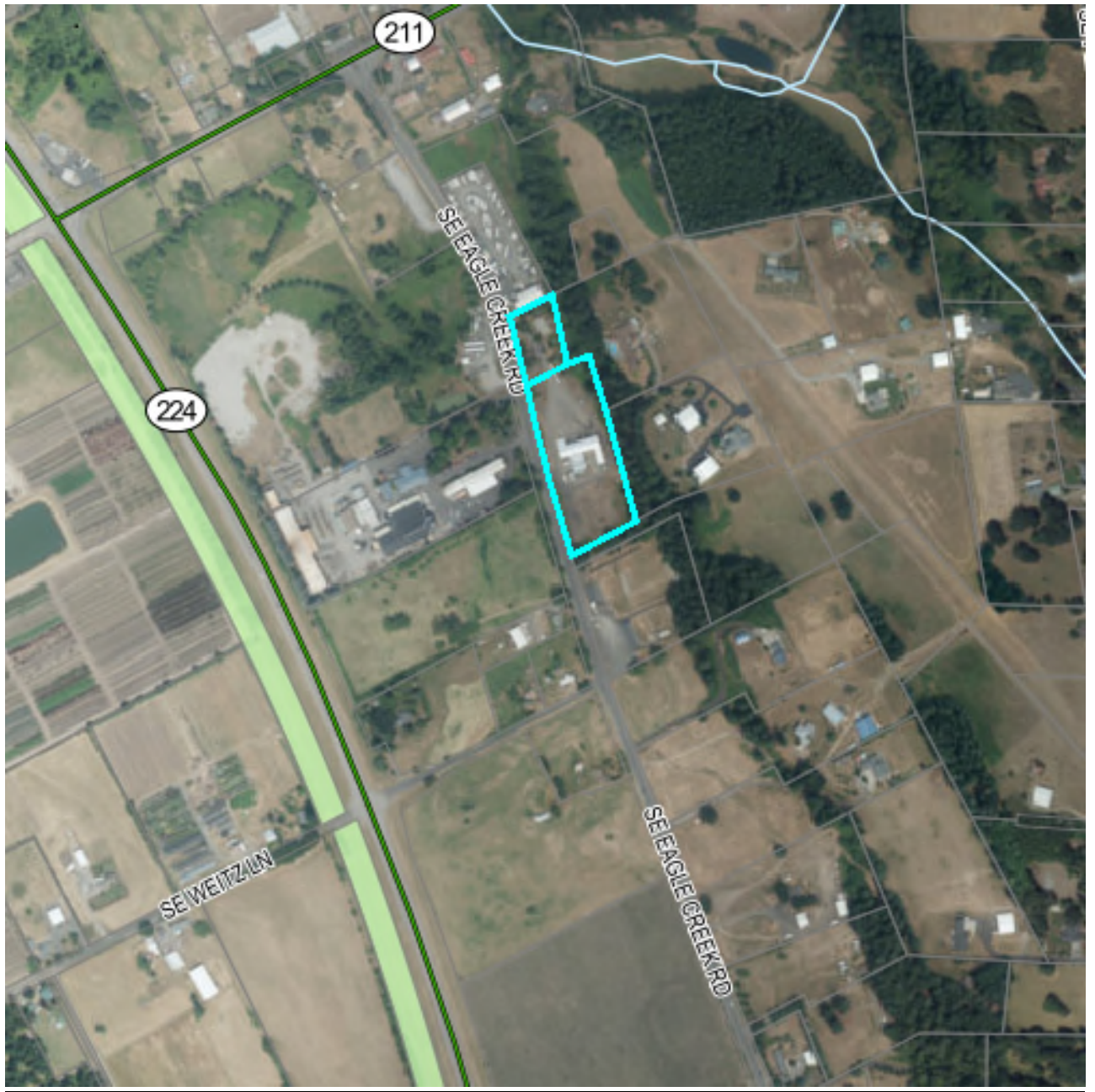


Exhibit No. 1
Property Aerial
Z0079-20-ZAP, Z0080-20-CP

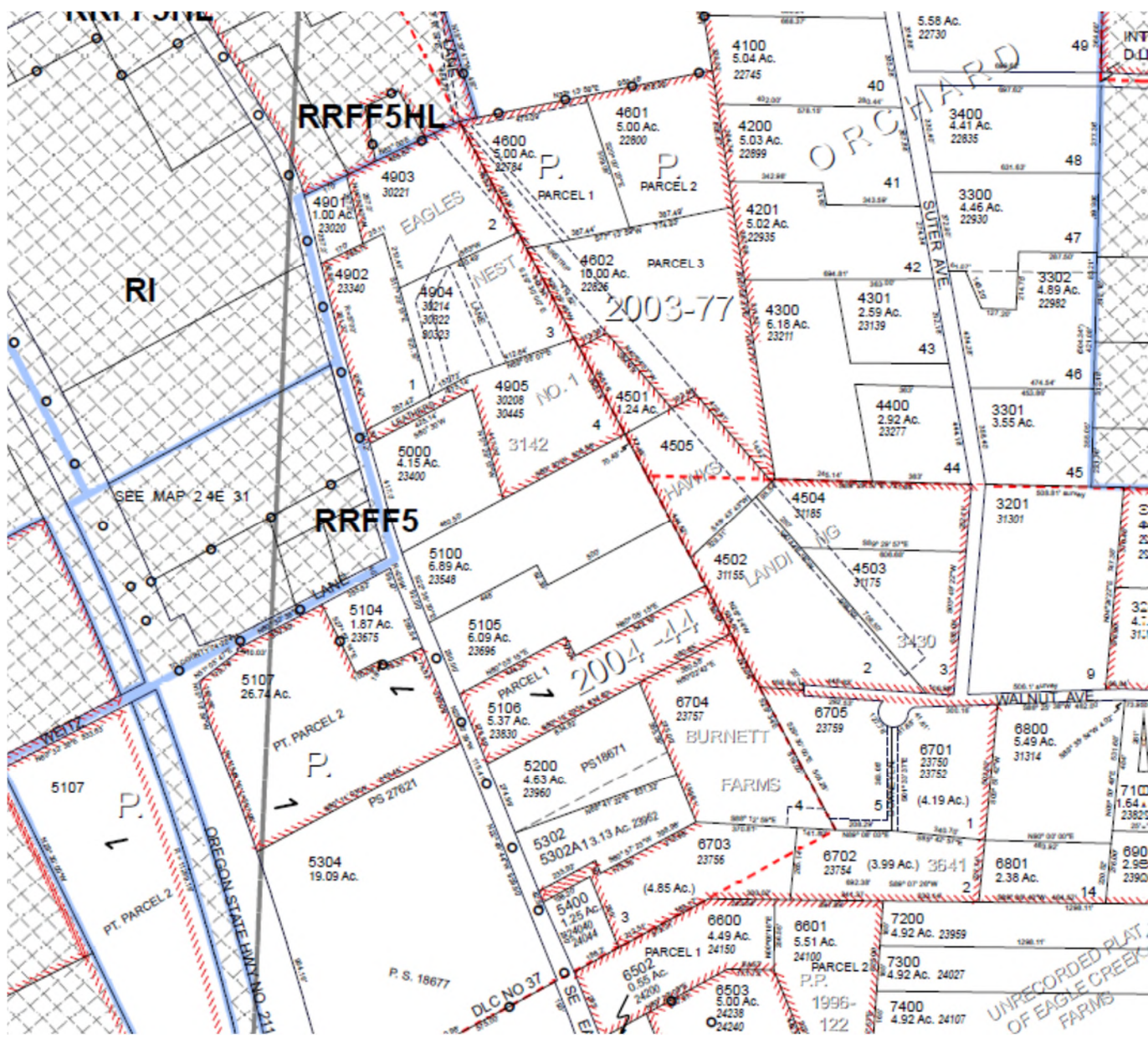
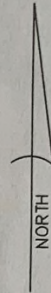


Exhibit No. 2
Tax Map
Z0079-20-ZAP, Z0080-20-CP

TAX LOT 4901 & 4902, SECTION 32,
TOWNSHIP 2 SOUTH RANGE 4 EAST,
WILLAMETTE MERIDIAN, CLACKAMAS
COUNTY, OREGON



SCALE 1" = 100'
AUG 10, 2011

*Secondary
well for
Irrigation*

*Primary well for
Both properties*

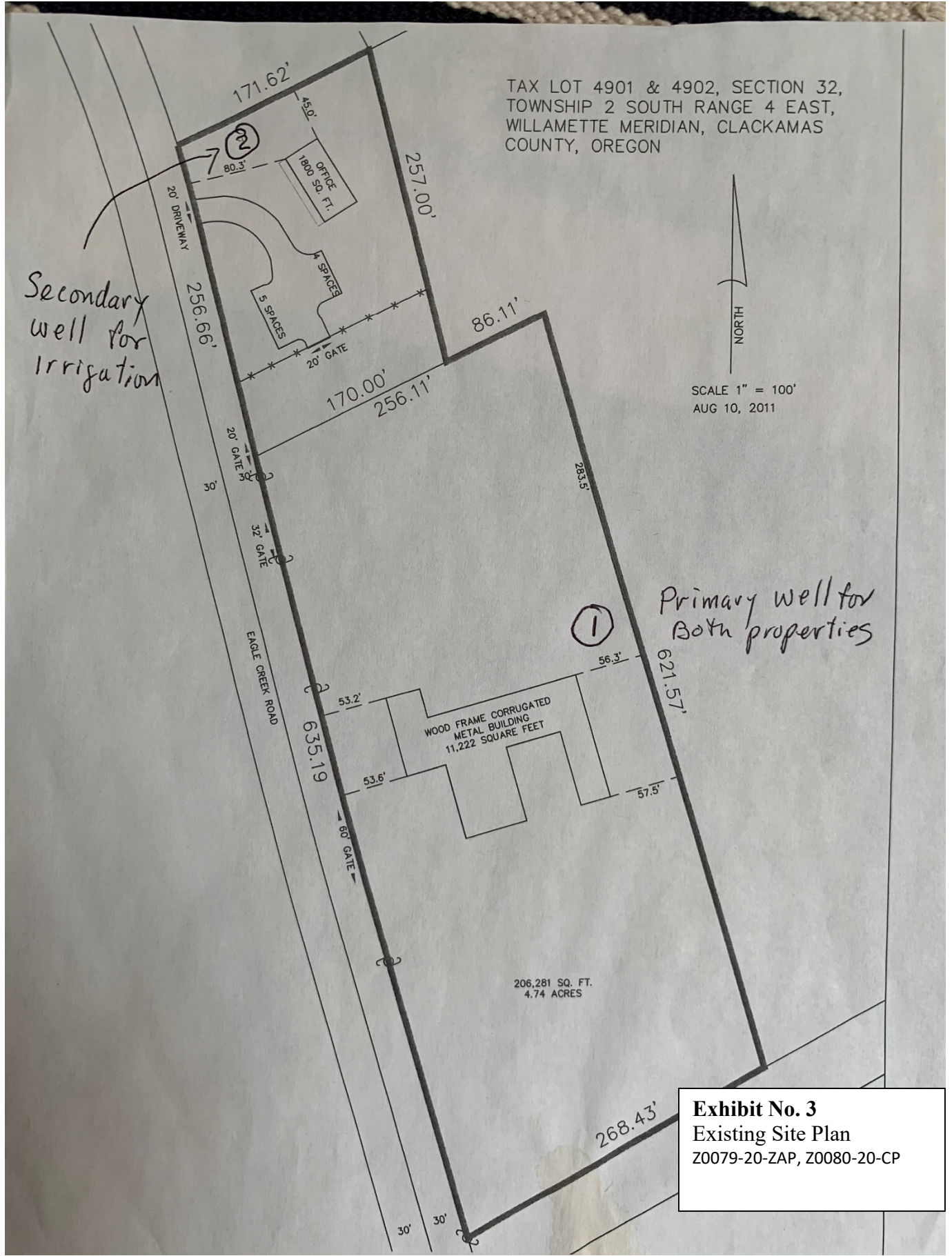


Exhibit No. 3
Existing Site Plan
Z0079-20-ZAP, Z0080-20-CP



Clackamas County Planning and Zoning Division
Department of Transportation and Development
Development Services Building
150 Beaver Creek Road | Oregon City, OR 97045
503-742-4500 | zoninginfo@clackamas.us
www.clackamas.us/planning

**NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF
COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA**

Date of Mailing of this Notice: July 20, 2020

Notice Sent To: Applicant, applicable cities/special districts/government agencies, and property owners within 750 feet of subject property

Please note that while Clackamas County is abiding by social distancing requirements during the coronavirus pandemic, the Planning Commission and the Board is able to hold land use public hearings virtually using the Zoom platform.

PLANNING COMMISSION HEARING:

Hearing Date & Time:
Monday, August 24th, 2020, at 6:30pm

How to Attend:
One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website:
<https://www.clackamas.us/meetings/planning/planningcommission/2020-08-24>

BOARD OF COUNTY COMMISSIONERS HEARING:

Hearing Date & Time:
Wednesday, September 16th, 2020, at 9:30am

How To Attend:
One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website: www.clackamas.us/meetings/bcc/landuse

Planning File Number: Z0079-20-CP & Z0080-ZA

Applicant: Greg Ernst

Proposal: A Comprehensive Plan Map Amendment from Rural to Rural Industrial and accompanying zone change from Rural Residential Farm Forest (RRFF-5) to Rural Industrial (RI) for a .98 acre parcel and a 3.74 adjacent parcel located at 23020 SE Eagle Creek Rd and 23340 SE Eagle Creek Rd.

Subject Tax Lots: T2S, R4E, Section 32 Tax Lot 4901 and 4902.

Property Owners: Greg Ernst

Area of Subject Tax Lots: Approximately 4.72 acres

Current Zoning: RRFF-5, Rural Residential Farm Forest

Approval Criteria: Clackamas County Zoning and Development Ordinance Sections 1202 and 1307; Clackamas County Comprehensive Plan Chapters 4 and 11; Statewide Planning Goals; Oregon Administrative Rules Chapter 660, Divisions 18 and 24.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4696: ¿Traducción e interpretación? [Требуется ли вам устный или письменный перевод? | 翻译或口译? |
Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Exhibit No. 4

Notices

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HOW TO OBTAIN ADDITIONAL INFORMATION

Staff Contact: Melissa Ahrens (Tel: 503-742-4519, Email: mahrens@clackamas.us)

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for review. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact (see above);
2. Visiting the Planning & Zoning Division (at the address shown at the top of the first this notice) during regular business hours, which are Monday through Thursday, 8AM to 2PM.
3. Going to the Clackamas County website page: <http://www.clackamas.us/planning/zdoproposed.html>

Community Planning Organization for Your Area:

The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Citizen Involvement Office at 503-655-8552. CPO: Eagle Creek-Barton CPO

HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested parties are invited to "attend" the hearings remotely online or by telephone, and will be provided with an opportunity to testify orally, if they so choose. Audience members will be invited to express their desire to provide testimony at the beginning of the hearing. Specific instructions will be available online at www.clackamas.us/meetings/bcc/landuse.
- Written testimony received by August 7th, 2020, will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
- Written testimony may be submitted by email, fax, or regular mail. Please include the case file numbers (Z0079-20-ZAP& Z0080-20-CP) on all correspondence and address written testimony to the staff contact who is handling this matter (Melissa Ahrens).
- Testimony, arguments, and evidence must be directed toward the approval criteria identified on the first page of this notice. Failure to raise an issue in person at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
- Written notice of the Board of County Commissioners' decision will be mailed to you if you submit a written request and provide a valid mailing address.

PROCEDURE FOR THE CONDUCT OF THE HEARING

The following procedural rules have been established to allow orderly public hearings:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision-maker for Clackamas County on this matter.

**NOTICE OF PUBLIC HEARINGS
SCHEDULED ON A PROPOSED CLACKAMAS COUNTY COMPREHENSIVE PLAN
MAP AMENDMENT AND ZONE CHANGE FROM RURAL RESIDENTIAL FARM
FOREST 5-ACRE (RRFF-5) TO RURAL INDUSTRIAL (RI) ZONING**

The Clackamas County Planning Commission (PC) and the Board of County Commissioners (BCC) will hold public hearings to consider a proposed Comprehensive Plan Map Amendment from Rural to Rural Industrial and accompanying zone change from Rural Residential Farm Forest (RRFF-5) to Rural Industrial (RI) for a .98 acre parcel and a 3.74 adjacent parcel located at 23020 SE Eagle Creek Rd and 23340 SE Eagle Creek Rd (Tax Lots 24E3204901 and 24E3204902).

The proposal, which is in File Nos. Z0079-20-CP and Z0080-20-ZAP, is available at: <http://www.clackamas.us/planning/zdoproposed.html>. The public may review and comment on the proposed amendments before and/or at the public hearings.

Planning Commission Public Hearing
6:30 p.m., Monday, August 24th, 2020

Board of Commissioners Public Hearing
9:30 a.m., Wednesday, September 16th, 2020

While Clackamas County is abiding by social distancing requirements during the coronavirus pandemic, the PC and BCC are able to hold land use public hearings virtually using the Zoom platform. One week prior to each hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website: www.clackamas.us/meetings/bcc/landuse

For more information: Melissa Ahrens, 503-742-4519, mahrens@clackamas.us
