



CLACKAMAS COUNTY BOARD OF COMMISSIONERS

LAND USE HEARING

9/25/2024

10:00 AM

This public hearing will be conducted in person *and* virtually using the Zoom platform. If you wish to attend in person, the address is:

2051 Kaen Rd, BCC Hearing Room—4th Floor, Oregon City

The Zoom link to the public hearing and details on how to observe and testify online or by telephone are available on our website: <https://www.clackamas.us/meetings/bcc/landuse>.

All interested parties are invited to attend the hearing in person, online or by telephone and will be provided with an opportunity to testify orally, if they so choose. The staff report and drafts of the proposed amendments are available on our website at <https://www.clackamas.us/meetings/bcc/landuse>. Please direct all calls and correspondence to the staff member listed below.

LAND USE HEARING

File No.: Z0197-24-ZAP and Z0198-24-CP, Comprehensive Plan Map Amendment and Zone Change

Applicants: James Kenney

Proposal: File nos. Z0197-24 and Z0198-24 include a proposed Comprehensive Plan map amendment to change the land use plan designation for approximately one acre of the subject property from Unincorporated Community Residential (UCR) to Rural Commercial (RC), with a corresponding zone change from Rural Area Residential 1-Acre (RA-1) to Rural Commercial (RC). The application does not itself propose, nor would its approval authorize, any new development.

Staff Contact: Martha Fritzie, MFritzie@clackamas.us, 503-742-4529

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 least three (3) business days before the meeting at 503-742-4545 or email Drenhard@clackamas.us.

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



**Land Use Hearing
Staff Report to the Board of County Commissioners**

File Number(s): Z0197-24-ZAP and Z0198-24-CP, *Comprehensive Plan Map Amendment and Zone Change*

Staff Contact: Martha Fritzie, Planning and Zoning, mfritzie@clackamas.us

Board of County Commissioners Hearing Date: September 25, 2024

PROPOSAL:

File nos. Z0197-24 and Z0198-24 include a proposed Comprehensive Plan map amendment to change the land use plan designation for approximately one acre of the subject property from Unincorporated Community Residential (UCR) to Rural Commercial (RC), with a corresponding zone change from Rural Area Residential 1-Acre (RA-1) to Rural Commercial (RC).

The application does not itself propose, nor would its approval authorize, any new development. ZDO Subsection 1102.01(A) requires that, in a commercial zoning district such as the proposed RC District, new development or the change of use of an existing structure from a residential to a commercial use receive design review approval, with consideration of particular aspects such as building design, parking, and landscaping.

Background: The subject property consists of one tax lot that contains roughly 3.8 acres and forms a rectangular area with approximately 330 feet of frontage on the south side of Hwy 212. Burt Lane, a private road, runs along the eastern boundary of the subject site; there is a 15-foot wide easement along that property line to accommodate part of that road. Development on the subject property does not appear to take access off Burt Ln, rather there is a single driveway providing direct access from the site to Hwy 212.

The subject property is relatively flat, is outside of a mapped flood hazard area, and has no County-regulated mass-movement or soil hazard areas, nor historic landmarks. The property does contain a mapped Habitat Conservation Area (HCA), subject to Section 706 of the county's Zoning & Development Ordinance (ZDO). The HCA runs from the northeast corner of the subject property, and diagonal to the southwest. The presence of the HCA does not preclude approval of the proposed amendment.

The applicant states that there are wetlands on the property, but did not provide a delineation report. According to the state's wetland inventory, there are hydric soils present in the northeastern portion of the property – contained within the area identified as the HCA - but the state's mapping identifies no jurisdictional wetlands on the site.

According to aerial photography, building permit history, Assessor's data, and the applicant's narrative, the subject property appears to currently have the following improvements:

- Two, single-family dwellings, one built circa 1930 and one built in 2018 (as a replacement dwelling for a 1986 manufactured dwelling on the property – which itself was permitted as a replacement dwelling for a circa 1963 manufactured dwelling on the property);¹
- Two storage buildings – one a described as a “pole building” and the other a storage building that resulted from the conversion/decommissioning of the 1986 manufactured dwelling on the site; and
- A small well house.

Per ZDO Section 316, the minimum lot size in the RA-1 zoning district is one acre. Therefore, under its current zoning, the subject site could potentially be divided into three lots, each with one dwelling - meaning the total allowed density on the subject site would be three dwellings.



Source: Clackamas County GIS, PlanMap

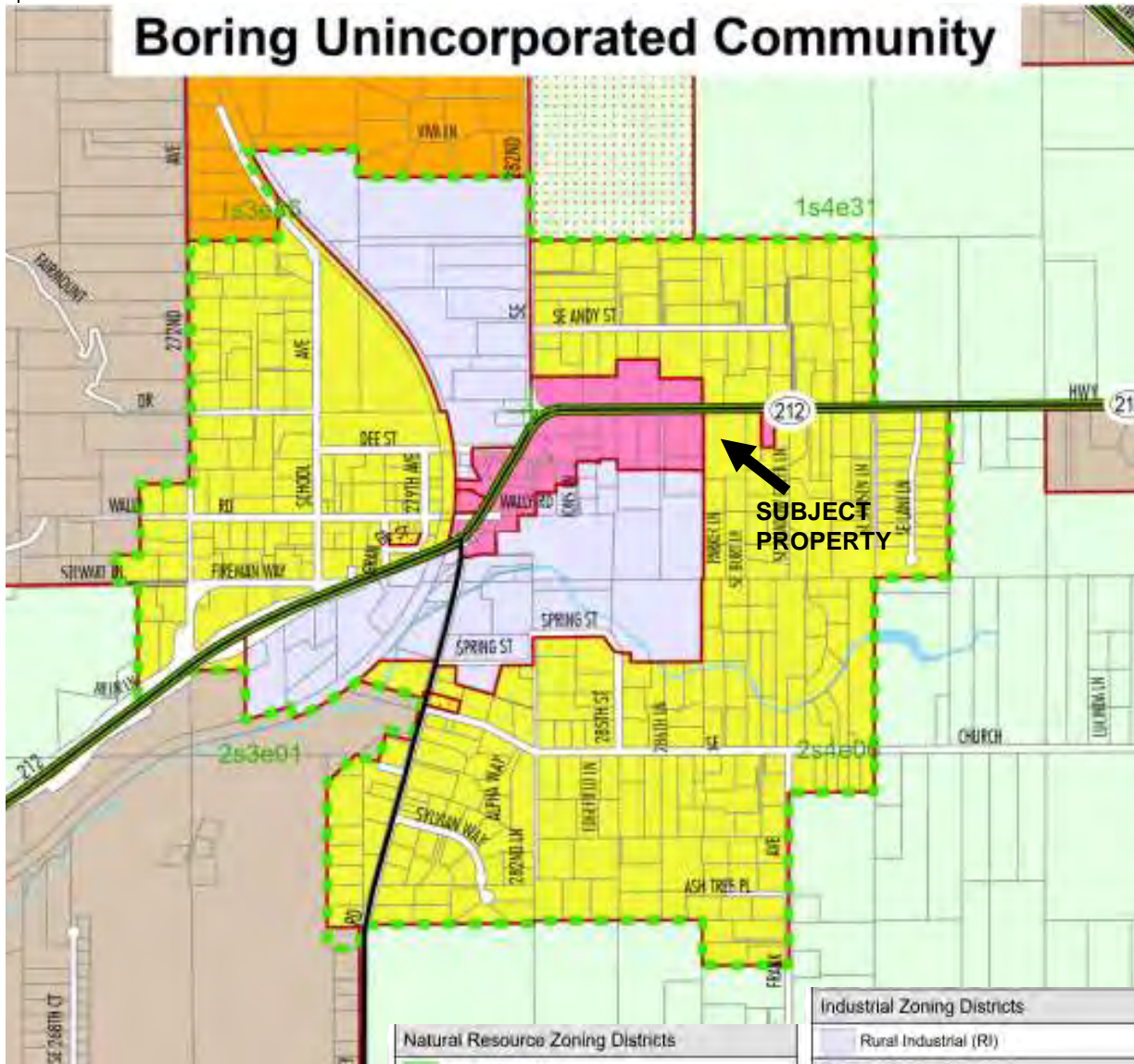
¹ Staff has made no formal determination with this application about whether the two dwellings on the site constitute a legal, non-conforming use.

The subject property is within the Unincorporated Community of Boring. Per Chapter 4 of the county's Comprehensive Plan, Unincorporated Communities, are "settlements located outside urban growth boundaries in which concentrated residential development is combined with limited commercial, industrial, or public uses. Unincorporated Communities may have limited public facilities and services." Unincorporated Communities were designated and adopted into the county's Plan per Chapter 660, Division 22 of the Oregon Administrative Rules (OARs), and include lands that are, by definition, Exception Lands, that are not subject to Goals 3 (Agriculture) and 4 (Forest).

All the properties surrounding the subject site are also within the Unincorporated Community of Boring. Properties directly to the west of the subject property are zoned RC (Rural Commercial) and RI (Rural Industrial) and one property approximately 115 feet east of the subject property is also zoned RC. All other immediately adjacent properties are zoned RA-1 (Rural Area Residential 1-Acre).

The general area around the subject site is developed with a mix of single-family residential, commercial, industrial, and institutional uses, including a fire station across the street and a post office, bank, and several retail and commercial businesses nearby.

The subject property is also located within an area designated as an Urban Reserve for the Portland Metro Urban Growth Boundary (PMUGB). Urban Reserves are areas that lie outside an urban growth boundary and have been designated as highest priority for inclusion in an urban growth boundary when additional urban land is needed in the future (see Reserves map, *Exhibit 2*).



Natural Resource Zoning Districts	
	Ag / Forest (AGF)
	Exclusive Farm Use (EFU)
	Timber (TBR)
Residential Zoning Districts	
	Farm Forest 10-Acre (FF-10)
	Rural Residential Farm Forest 5-Acre (RRFF-5)
	Rural Area Residential 2-Acre (RA-2)
	Rural Area Residential 1-Acre (RA-1)
	Future Urban 10-Acre (FU-10)
Commercial Zoning Districts	
	Rural Commercial (RC)

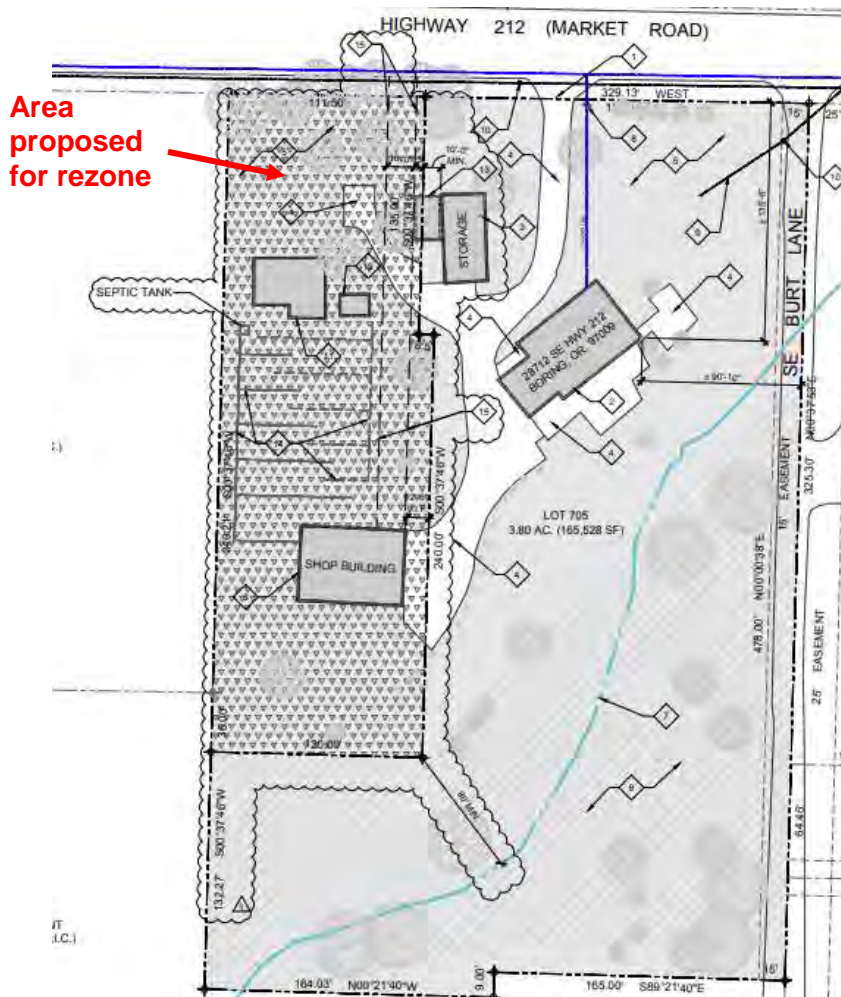
Industrial Zoning Districts	
	Rural Industrial (RI)
Special Zoning Districts	
	Limited Use Zone (LUZ)
	Historic District (HD) Overlay
	Historic Landmark (HL) Overlay
	Mineral and Aggregate Overlay (MAO)
Boundaries	
	Clackamas County
	Urban Growth Boundary
	Unincorporated Community
	Mt. Hood National Forest
	City Boundaries

The applicant proposes to change the Comprehensive Plan map and zoning designation for approximately one acre of the 3.8-acre parcel. The portion proposed for the change is located in the northwest corner of the site and has approximately 111.5 feet of frontage on Highway 212.

The original site plan provided in the application indicated that the proposed zoning line would cross through an existing structure. Staff noted at the Planning Commission (PC) hearing that the exact placement of the line would need to be adjusted so as to avoid that structure or the structure itself would need to be removed. The PC also expressed concern about whether the zoning line is proposed across a septic system and recommended including a condition requiring the zoning line also not cross the septic system.

The applicant has provided a revised site plan, illustrated below (and in *Exhibit 8*), which demonstrates the following:

- The area to proposed to be changed to the RC designation contains at least one acre (as required by the zone change criteria);
- The proposed new zoning line would cross the “carport” portion of an existing storage structure, but that “carport” section will be removed prior to final adoption of the zone change;
- All remaining structures would be at least 10 feet from the zoning line; and
- The proposed new zoning line would not cross the site’s existing septic system.



These applications are subject to the criteria and processes outlined in the county's Comprehensive Plan and Zoning & Development Ordinance (ZDO), as well as the Statewide Planning Goals. Based on the findings detailed in the Planning Commission Staff Report (attached), Staff finds that, with the conditions proposed below, the proposal meets all applicable criteria both for a Comprehensive Plan map amendment and zone change from the Unincorporated Community Residential/RA-1 designation to a Rural Commercial designation.

RELATED PRIOR BCC ACTION:

None

PLANNING COMMISSION ACTION:

A public hearing was held on August 26, 2024, for Planning Commission consideration of the applications and the staff recommendation. The applicant team and one neighbor were the only parties who provided testimony at the Planning Commission hearing. The neighbor expressed concerns about potential implications for his property, but was not opposed to the proposal. The Planning Commission voted 6-3 to recommend approval of Z0197-24 & Z0198-24, but with two amendments to the proposed conditions of approval:

- Reduce the “trip cap” on development from 400 to 200 average daily trips (see “Significant Issues” section for more detail); and
- Ensure the zoning line does not cross a septic system.

Planning Commissioners who voted in opposition to the passed motion did so for different reasons:

- One Commissioner supported the proposal but did not support trip cap reduction from original recommendation of 400 avg. daily trips.
- Two Commissioners remained concerned about impacts to the habitat conservation area (HCA).

Draft minutes of the Planning Commission hearing are attached.

CPO AND HAMLET RECOMMENDATIONS:

The local Community Planning Organization (CPO) - the Boring CPO – has not provided any comments to Planning staff. The application does, however, contain a letter, dated February 15, 2024, that states the applicant had informed the CPO of their intention to apply for this zone change and the CPO members had voted unanimously in support of the application.

SIGNIFICANT ISSUES:

At its August 26th hearing, the Planning Commission was generally supportive of the proposal, but discussed two significant issues:

1. The proposed “trip cap”. With any zone change proposal, an applicant is required to provide a traffic analysis that addresses both the adequacy and safety of the transportation system. The adequacy of the system is demonstrated by meeting the state’s Transportation Planning Rule (OAR 660-012-0060), which requires that a determination be made as to whether the amendment would result in a “significant effect” on the transportation system. The applicant’s traffic analysis found that

“While an unrestricted zone change would likely result in a significant effect on the transportation system requiring a detailed analysis and mitigation application of a trip cap on the subject property would allow the desired development to proceed while ensuring that future development will not result in a significant effect on the surrounding transportation system. Accordingly a trip cap of 400 average daily trips is proposed for the one-acre parcel zoned ‘RC’.”

As such, staff recommended a condition that would limit the size and type of future development on the RC portion of the property to that which generates no more than 400 average daily trips. This type of limitation is often called a “trip cap”.

However, one of the Planning Commissioners brought up a concern about the traffic study’s discussion of whether a turn lane would be warranted for safety reasons. The left turn discussion in the traffic study is based on the assumed development of a coffee kiosk, which has been noted by the applicant as the likely future development) and is expected to generate 180 daily trips, rather than the 400 proposed in the trip cap. The study noted that “the volume of westbound left-turning traffic is just below the threshold at which a turn lane should be considered...” The Planning Commissioner’s concern was that if a development came in closer to the 400 trip cap, then it would trigger the need for a left turn lane.

As a result of this concern, the PC made a motion to recommend approval of the proposed Comp Plan map amendment and zone change, but with a reduced trip cap of 200 (rather than the 400 that the applicant’s traffic consultant recommended).

Planning staff asked county Engineering staff to further review and address the left turn land analysis and proposed trip caps. Engineering staff provided the additional comments found in *Exhibit 6* and concluded that there may not a solid basis for reducing the trip cap below the proposed 400 daily trips due to the following:

- *Simply meeting the ODOT left turn volume criteria does not automatically mean that a left turn lane should be built. Rather, the left turn criteria is intended to identify the threshold above which a left turn lane may be considered.*
- *In some cases a left turn lane to an individual property (rather than a continual left turn lane along a portion of a road) may actually create additional safety concerns on a highway. Generally, left turn lanes are not to be constructed for private accesses in rural areas unless the siting criteria are met and installation of a left turn lane will not create additional safety concerns on the highway.*
- *Highway 212, in the vicinity of the subject site, is a two-lane highway in a rural community with densely spaced private and public accesses and no left turn lanes. Based on ODOT’s procedural and design manuals, it appears unlikely that ODOT would require, or even allow, the installation of a left turn lane for this private development in isolation.*

As such, Planning staff recommends that the Board retain the condition that requires a trip cap of 400 average daily trips, rather than the trip cap of 200 average daily trips proposed by the Planning Commission.

2. The mapped Habitat Conservation Area (HCA) on a portion of the property. As noted, there is an HCA running from the northeast corner of the subject property, diagonal to the southwest, but the presence of the HCA does not preclude approval of the proposed amendment. The presence of the HCA did cause some concern for several Planning Commissioners. One Commissioner voiced specific concern that the applicant might divide the property in the future and the configuration of the RC portion might cause that division

and future development to impact the HCA more than if the property remained RA-1. At the hearing staff noted that the ZDO does allow for some encroachment into the HCA, but that there is a maximum disturbance area for development on a property with HCA. Nothing about this proposal would change how the HCA is administered on the property. In addition:

- Under the current zoning, three approximately one-acre lots could be created and this would not change or be increased with the proposal to change an acre to the RC zone.
- There is no clear way to determine if the exact configuration of the RC portion would be different than or would negatively affect either the ability to divide the remainder of the RA-1 zoned portion of the property or would cause additional encroachment into the HCA with future development.
- Any future development – commercial or residential – would need to meet the ZDO criteria related to the HCA.

As noted above, concern for potential impacts to the HCA led two of the Commissioners to vote against recommending approval of the proposed Comp Plan map amendment and zone change.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of files Z0197-24-ZAP and Z0198-24-CP, the Comprehensive Plan Map amendment from Unincorporated Community Residential (UCR) to Rural Commercial (RC), and corresponding zone change from Rural Area Residential, 1-acre (RA-1) to Rural Commercial (RC), subject to the recommended conditions of approval.

1. The Clackamas County Comprehensive Plan Map 4-7a, *Non-Urban Area Land Use Plan*, and all other maps of the Comprehensive Plan that include the subject property (tax lot 24E06BA 00705, with situs address 28712 SE HWY 212, Boring) shall be amended to show the identified approximately one-acre portion of the subject property as having a Comprehensive Plan land use designation of Rural Commercial (RC).
2. The Clackamas County *Non-Urban Area Zoning Map* shall be amended to show the identified approximately one-acre portion of the subject property as being in the Rural Commercial (RC) zoning district.
3. **Prior to final adoption**, the applicant shall provide the county with evidence that the portion of the structure identified in note #13 in the revised site plan as the “carport” has been demolished.
4. The approximately one-acre area of the property zoned Rural Commercial (RC) shall be subject to the following conditions:
 - a. The total of all development shall generate no more than 400 average daily trips.
 - b. A minimum lot size of one acre shall apply and no exceptions to the minimum lot size may be obtained.

Z0197-24 & Z0198-24

PROPOSED COMP. PLAN MAP
AMENDMENT & ZONE CHANGE



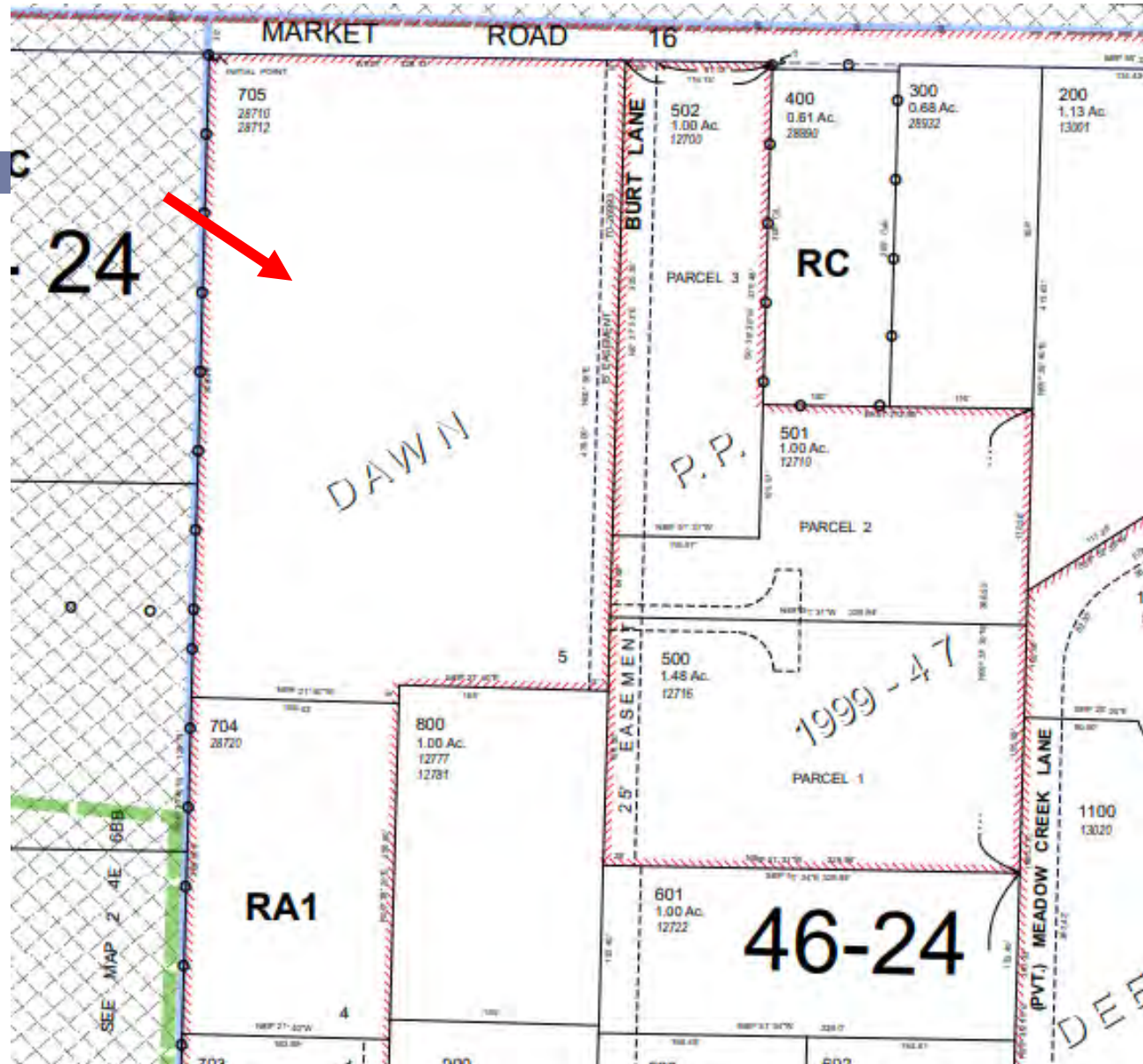
Public Hearing, Board of County Commissioners
September 25, 2024; 10:00 AM

PROPOSAL OVERVIEW

- Comprehensive Plan map amendment from Unincorporated Community Residential (UCR) to Rural Commercial (RC)
- Corresponding zone change from Rural Area Residential, 1 acre (RA-1) to Rural Commercial (RC)
- Approx. 1 acre of the subject site
- Comp Plan/zone change would not authorize any development
- Future development would be subject to design review

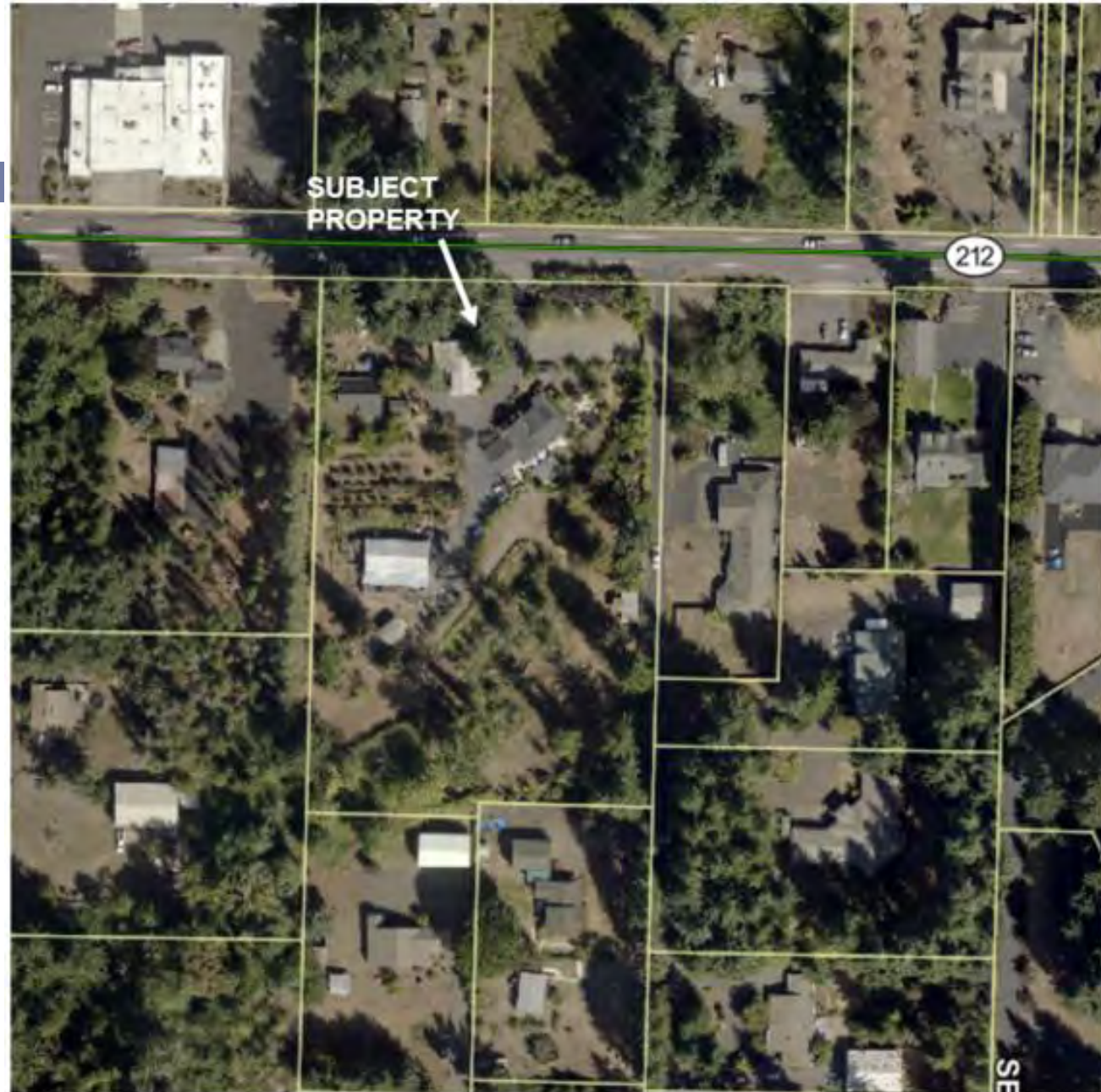
SUBJECT SITE

- 28712 SE Hwy 212, Boring
- Map 24E06BA Tax Lot 00705
- 3.8 acres total
- Only ~1 acre proposed for rezone

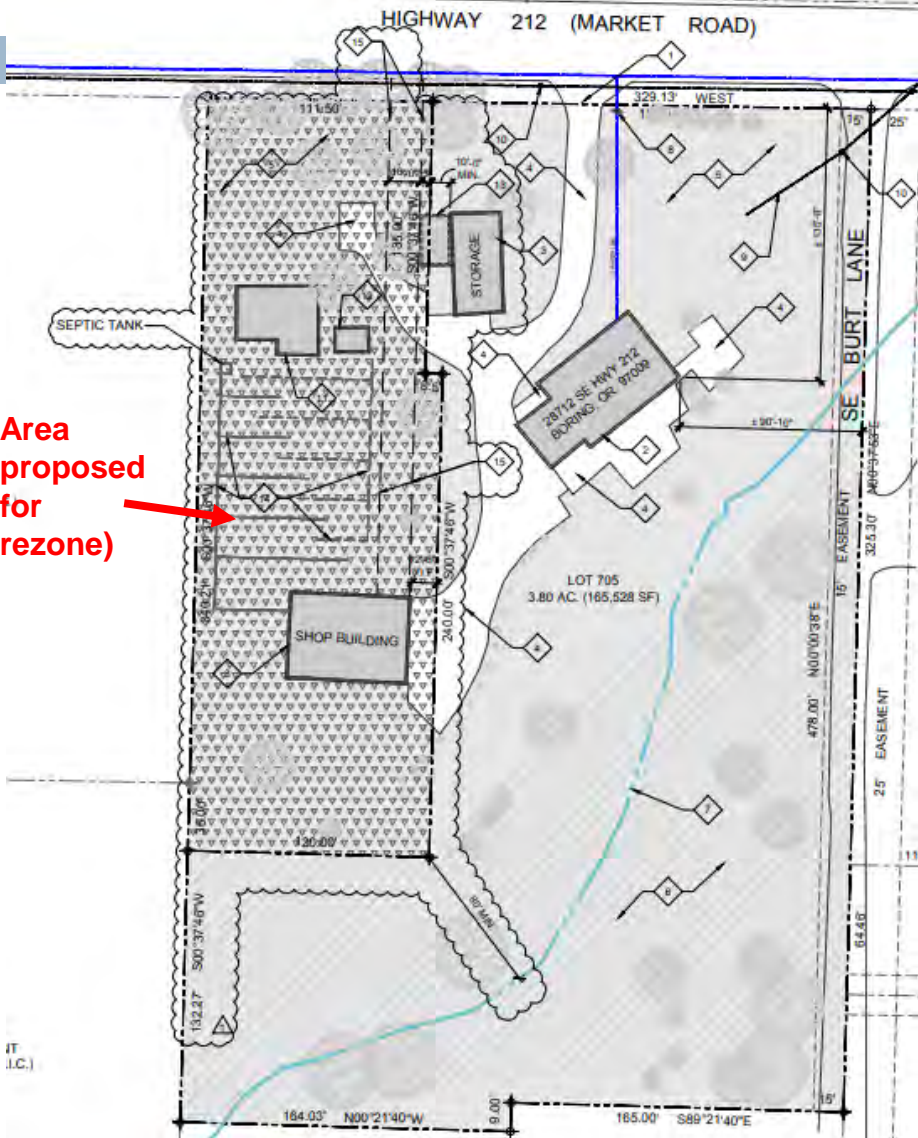


SUBJECT SITE

- Relatively flat
- Developed with 2 single-family dwellings and several accessory/storage structures
- Habitat Conservation Area (HCA) overlay on a portion
- No other overlays



PROPOSAL - AREA FOR ZONE CHANGE



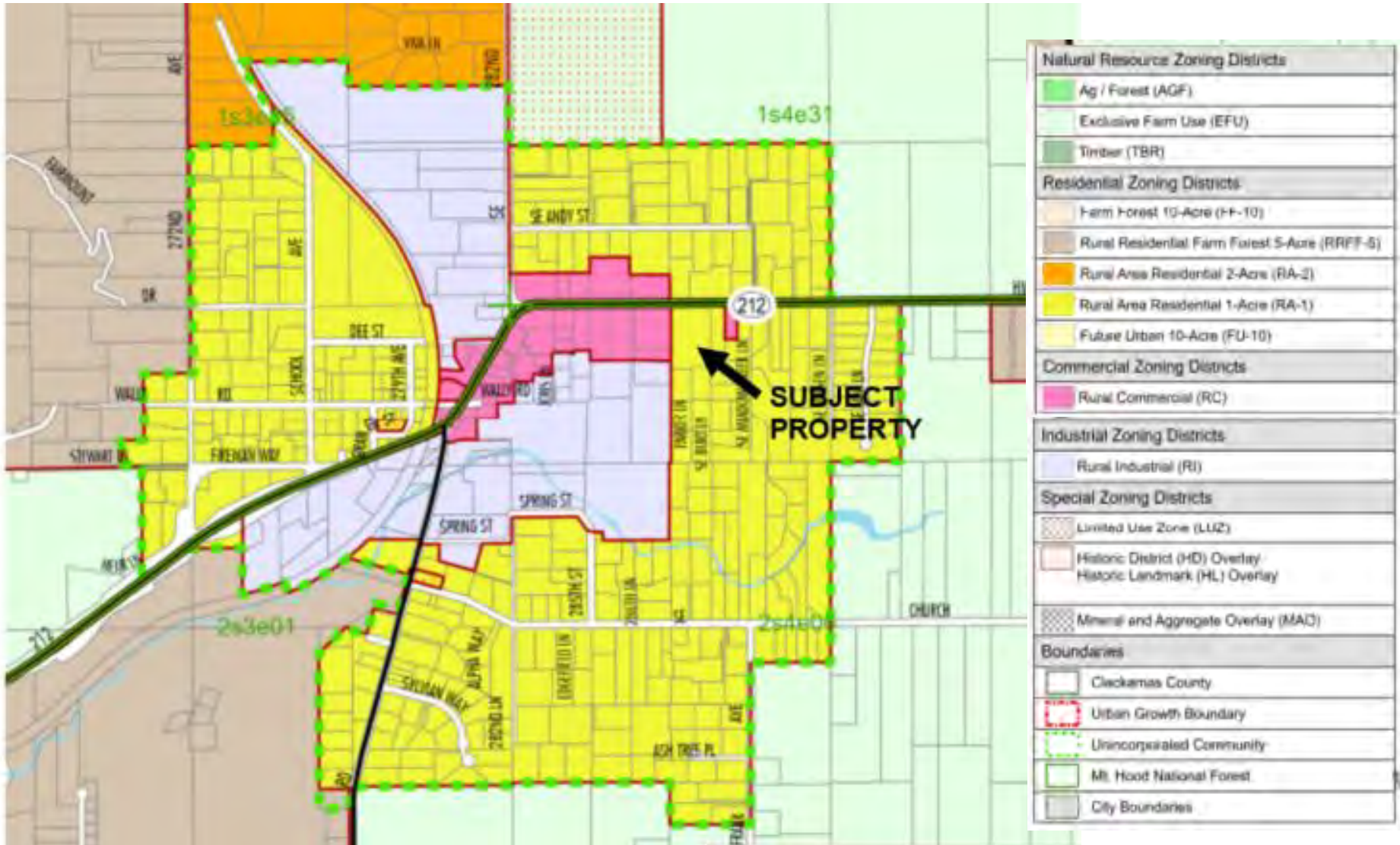
SUBJECT SITE & SURROUNDING AREA

- Within Unincorporated Community of Boring
- Within an Urban Reserve (for Portland Metro urban growth boundary, UGB)

Surrounding zoning

- West: *Rural Commercial (RC)* and *Rural Industrial (RI)*
 - Fire station, post office, bank
 - Other businesses
- East, north and south: *Rural Area Residential (RA-1)*, one *RC parcel*
 - Mostly single-family residential development

ZONING MAP



PUBLIC COMMENT

- Notice sent 7/22/24
- Two parties commented: ODOT & County Engineering
 - Agree with trip cap proposed in applicant's traffic study
 - Discusses left turn warrant analysis and safety
 - Exhibits 4 through 7
- CPO: Boring
 - No official testimony
 - Letter in application

RELEVANT POLICIES AND CRITERIA

Statewide Planning (SWP) Goals

- Goal 12 *Transportation*
- Goal 14 *Urbanization*

County Comprehensive Plan Goals & Policies

- Chapter 2 *Citizen Involvement*
- Chapter 4 *Land Use*
- Chapter 5 *Transportation*
- Chapter 11 *The Planning Process*

Zoning & Development Ordinance (ZDO)

- Section 1202 *Zone Changes*
- Section 1307 *Procedures*

ZDO FINDINGS, 1202.03(A)

- Section 1202.03(A): *The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.*
 - Chapters 2 & 11: procedural and coordination policies and requirements
 - Chapter 5: zone change must comply with the Transportation Planning Rule (TPR), SWP Goal 12
 - Chapter 4: land use policies
 - Rural Commercial designation
 - “New uses” in urban reserves
 - Exceptions in OAR 660-027-0070, SWP Goal 14

ZDO FINDINGS, 1202.03(B)

- Section 1202.03(B): requires demonstration that any needed public services are available and sufficient for development under new zoning designation
 - ▣ Statements of Feasibility – water, storm

ZDO FINDINGS, 1202.03(C) & (D)

- Section 1202.03(C): *The transportation system is adequate and will remain adequate with approval of the proposed zone change...*
- Section 1202.03(D): *Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.*
 - Traffic study submitted by applicant
 - Will have significant effect on adequacy of system: trip cap recommended (400 avg. daily trips)
 - Will not have a significant effect on safety of system

CONCLUSION

- Proposal meets all applicable criteria for a Comprehensive Plan map amendment and zone change to Rural Commercial, with conditions

PLANNING COMMISSION (PC) HEARING

- Public hearing August 26, 2024
- One neighbor testified
 - ▣ Not opposed
 - ▣ Questions about road requirements
- Significant issues
 - ▣ Trip cap and safety of Hwy 212, left turn lane warrants
 - ▣ Habitat conservation area overlay

PC RECOMMENDATION

- PC recommended approval of Z0197-24 & Z0198-24, as conditioned EXCEPT with the following amendments
 - ▣ Trip cap reduced to 200 avg. daily trips
 - ▣ Ensure zoning line does not cross septic system
- Vote (6-3)
 - ▣ Votes in opposition for different reasons
 - One did not support trip cap reduction from original recommendation of 400 avg. daily trips
 - Two were concerned about impacts to the habitat conservation area

REVISED SITE PLAN

Area proposed for rezone

SEPTIC TANK

STORAGE

SHOP BUILDING

20712 SE HWY 212
BORING, OR 97009

LOT 705
3.80 AC. (165,528 SF)

SE BURT LANE

13

EXISTING CARPORT STRUCTURE TO BE COMPLETELY REMOVED AND LEGALLY DISPOSED OF. OWNER TO ENSURE REMOVAL OCCURS PRIOR TO FORMAL ADOPTION OF REZONE.

- Exhibit 8
- Demonstrates:
 - Setbacks from new zoning line
 - Septic system not impacted
 - Direct access to shop

STAFF RECOMMENDATION

- Approval, with (revised) conditions
 - Development subject to a trip cap: 400 avg. daily trips
 - More defensible based on criteria and traffic engineer analyses
 - Minimum lot size in RC portion: 1 acre
 - Portion of structure on zoning boundary line to be removed prior to adoption

The slide features two horizontal bars. The top bar is a solid dark blue line. The bottom bar is a solid dark blue line that is mostly continuous but has a small light blue rectangular segment at its right end.

THANK YOU

Martha Fritzie, (503) 742-4529, mfritzie@clackamas.us



**PLANNING STAFF REPORT AND RECOMMENDATION TO
THE PLANNING COMMISSION**

REPORT DATE: August 19, 2024

HEARING DATE: August 26, 2024 (Agenda Item Time: 6:30 pm)

PLANNING FILE NOS.: Z0197-24-ZAP and Z0198-24-CP

PROPOSAL: A Comprehensive Plan map amendment to change the land use plan designation for approximately one acre of the subject property from Unincorporated Community Residential (UCR) to Rural Commercial (RC), with a corresponding zone change from Rural Area Residential 1-Acre (RA-1) to Rural Commercial (RC). No development is proposed with this application.

STAFF CONTACT(S): Martha Fritzie, (503) 742-4529, mfritzie@clackamas.us

LOCATION: 28712 SE Hwy 212, Boring, OR; on the south side of HWY 212, approximately 1,200 feet (0.23 miles) east of its intersection with SE 282nd Ave.

T2S, R4E, Section 06BA Tax Lot 00705

APPLICANT(S): James Kenney

OWNER(S): James Kenney & Tammy Kenney

SUBJECT PROPERTY AREA: Approximately 3.8 acres, only 1.007 acre of which is proposed for the amendment

CURRENT ZONING: Rural Area Residential 1-Acre (RA-1)

COMPREHENSIVE PLAN DESIGNATION: Unincorporated Community Residential (UCR)

COMMUNITY PLANNING ORGANIZATION: Boring CPO, Michael Fitz, fitz@staroilco.net

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 submitted application is available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select 'Record Info' and then select 'Attachments' from the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be

purchased at the rate of \$2.00 per page for 8.5" x 11" or 11" x 14" documents, \$2.50 per page for 11" x 17" documents, \$3.50 per page for 18" x 24" documents, and \$0.75 per square foot with a \$5.00 minimum for large format documents.

APPLICABLE APPROVAL CRITERIA: These applications are subject to: Statewide Planning Goals; Clackamas County Comprehensive Plan; and Clackamas County Zoning and Development Ordinance (ZDO) Sections 202, 513, 1202, and 1307.

I. STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the Comprehensive Plan map amendment and zone change in file nos. Z0197-24-ZAP and Z0198-24-CP, subject to the following conditions:

1. The Clackamas County Comprehensive Plan Map 4-7a, *Non-Urban Area Land Use Plan*, and all other maps of the Comprehensive Plan that include the subject property (tax lot 24E06BA 705, with situs address 28712 SE HWY 212, Boring) shall be amended to show the identified approximately one-acre portion of the subject property as having a Comprehensive Plan land use designation of Rural Commercial (RC).
2. The Clackamas County *Non-Urban Area Zoning Map* shall be amended to show the identified approximately one-acre portion of the subject property as being in the Rural Commercial (RC) zoning district.
3. **Prior to final adoption**, the applicant shall provide the county with a revised map identifying the area to be amended to Rural Commercial that clearly demonstrates (A) the area approved for the Comprehensive Plan map amendment and zone change contains at least one acre, and (2) no structures are contained in more than one zoning district on the subject property.
4. The approximately one-acre area of the property zoned Rural Commercial (RC) shall be subject to the following conditions:
 - a. The total of all development shall generate no more than 400 average daily trips.
 - b. A minimum lot size of one acre shall apply and no exceptions to the minimum lot size may be obtained.

II. BACKGROUND

Proposal: This application requests that Clackamas County's Comprehensive Plan land use plan designation, as identified in Comprehensive Plan maps, be changed from Unincorporated Community Residential (UCR) to Rural Commercial (RC), and for the zoning designation be changed concurrently from Rural Area Residential 1-Acre (RA-1) to Rural Commercial (RC) on a portion – approximately one acre - of the subject property.

The application does not itself propose, nor would its approval authorize, any new development. Zoning & Development Ordinance (ZDO) Subsection 1102.01(A) requires that new development in a commercial zoning district, such as the proposed RC District, receive design review approval, for which the Applicant has not yet applied. The Applicant acknowledges in their application materials

that, even if this Comprehensive Plan Map amendment and zone change application is approved, approval of any desired commercial building(s) will require a separate design review application, with consideration of particular aspects such as building design, parking, and landscaping.

Subject property and surrounding area: The subject property consists of one tax lot that contains roughly 3.8 acres and forms a rectangular area with approximately 330 feet of frontage on the south side of Hwy 212. Burt Lane, a private road, runs along the eastern boundary of the subject site; there is a 15-foot wide easement along that property line to accommodate part of that road. Development on the subject property does not appear to take access of Burt Ln, rather there is a single driveway providing direct access from the site to Hwy 212.

The subject property is relatively flat, is outside of a mapped flood hazard area, and has no County-regulated mass-movement or soil hazard areas, nor historic landmarks. The property does contain an area mapped as within the Habitat Conservation Area District (HCAD), subject to ZDO Section 706. The HCAD runs from the northeast corner of the subject property, and diagonal to the southwest.

The applicant states that there are wetlands on the property, but did not provide a delineation report. According to the state's wetland inventory, there are hydric soils present in the northeastern portion of the property – contained within the area identified as the HCA - but the state's mapping identifies no jurisdictional wetlands on the site.

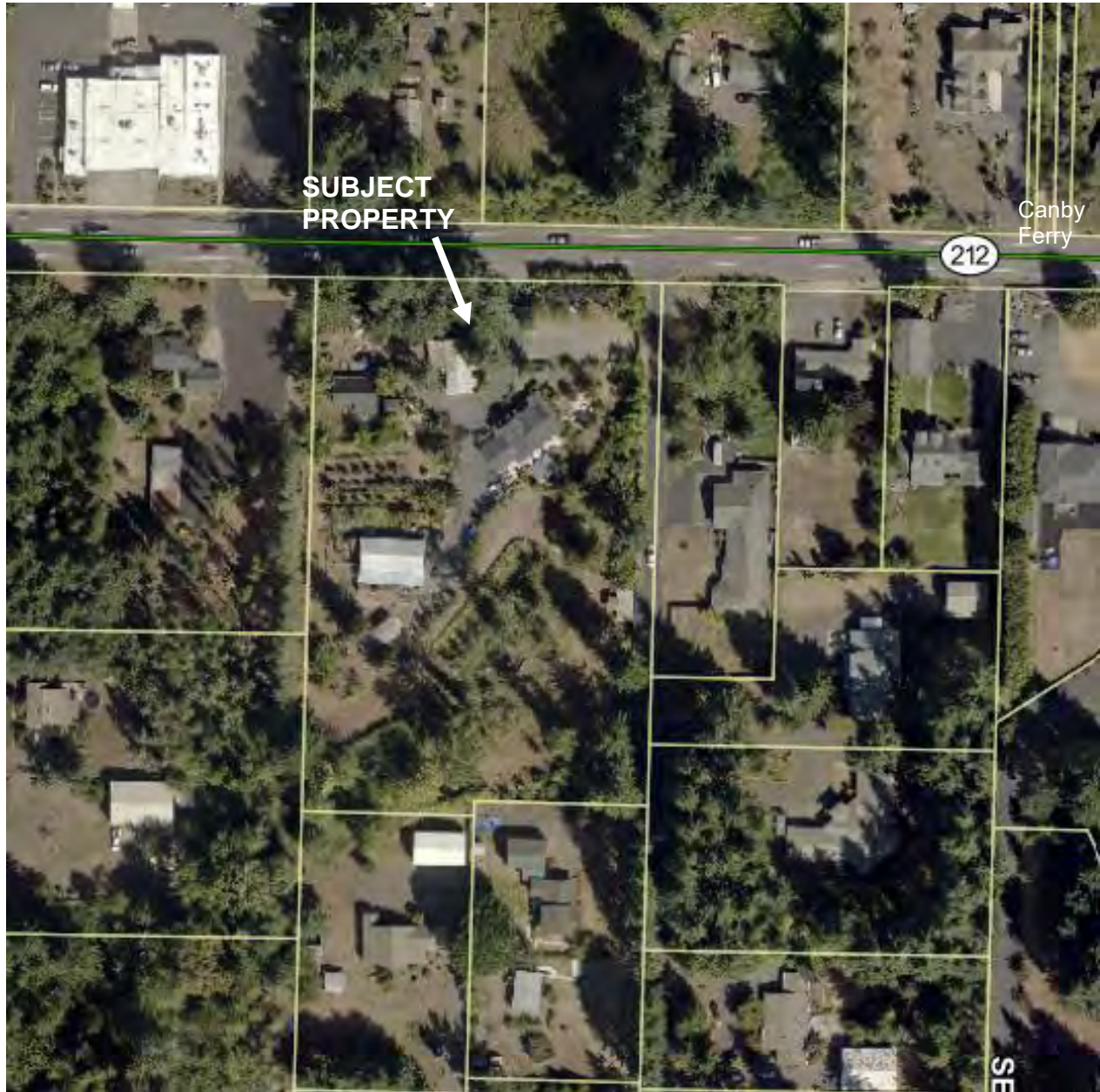
According to aerial photography, building permit history, Assessor's data, and the applicant's narrative, the subject property appears to currently have the following improvements:

- Two, single-family dwellings, one built circa 1930 and one built in 2018 (as a replacement dwelling for a 1986 manufactured dwelling on the property – which itself was permitted as a replacement dwelling for a circa 1963 manufactured dwelling on the property);¹
- A small, well house;
- Two storage buildings – one a described as a “pole building” and the other a storage building that resulted from the conversion/decommissioning of the 1986 manufactured dwelling on the site; and
- A relatively large among to treed and landscaped area.

Per ZDO Section 316, the minimum lot size in the RA-1 zoning district is one acre. Therefore, under its current zoning, the subject site could potentially be divided into three lots, each with one dwelling, meaning the total allowed density on the subject site would be three dwellings.

¹ Staff is making no formal determination with this application about whether the two dwellings on the site constitute a legal, non-conforming use.

Subject Property and Vicinity (2023 Aerial Photo)



Source: Clackamas County GIS, PlanMap

The subject property is within the Unincorporated Community of Boring. Per Chapter 4 of the county's Comprehensive Plan, Unincorporated Communities, are "settlements located outside urban growth boundaries in which concentrated residential development is combined with limited commercial, industrial, or public uses. Unincorporated Communities may have limited public facilities and services." Unincorporated Communities were designated and adopted into the county's Plan per Chapter 660, Division 22 of the Oregon Administrative Rules (OARs), and include lands that are, by definition, Exception Lands, that are not subject to Goals 3 (Agriculture) and 4 (Forest).

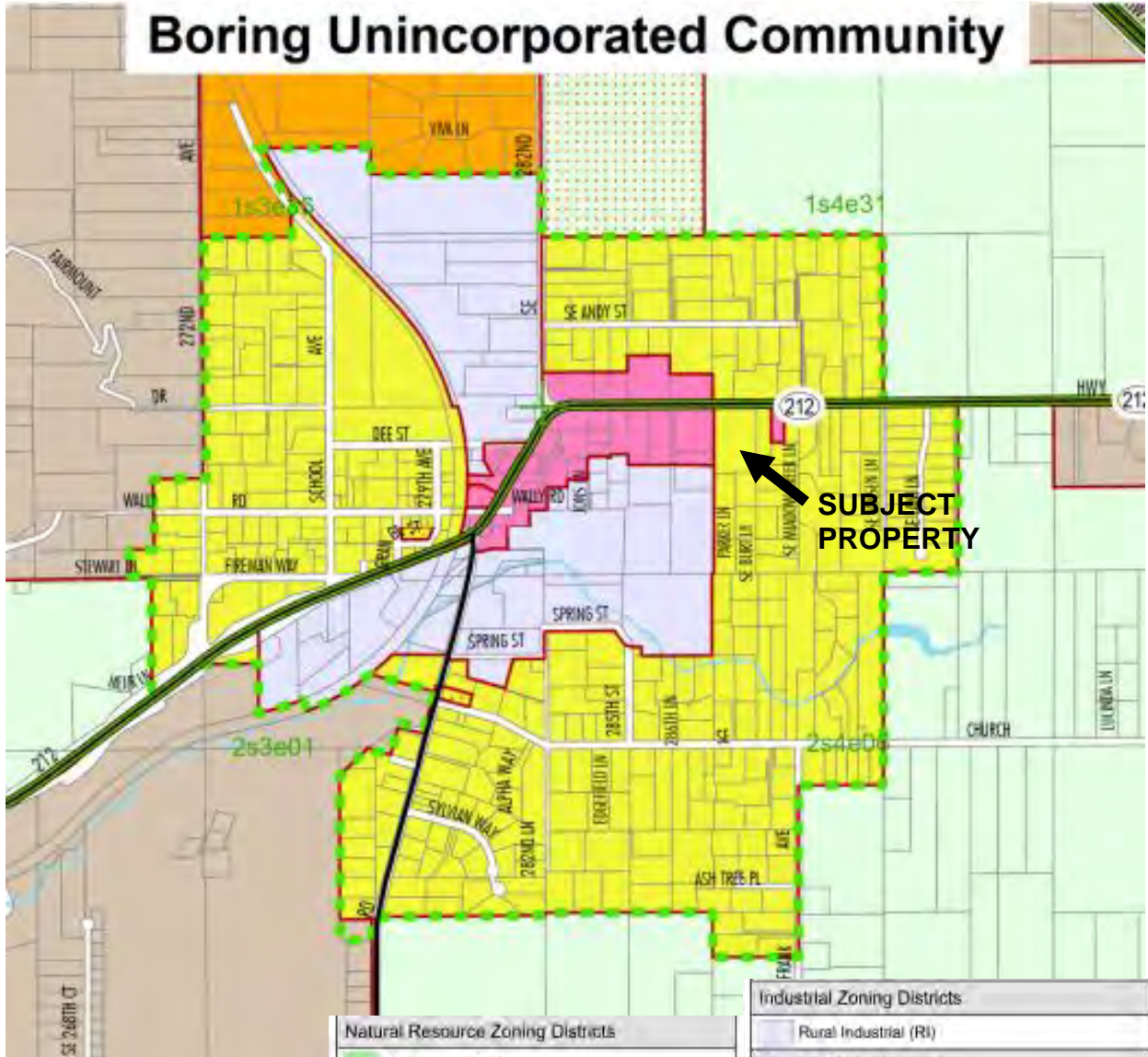
The rules that guide planning and zoning of unincorporated communities establish four types of communities: urban unincorporated communities (the largest examples), rural communities (smaller and predominantly residential), rural service centers (predominantly commercial or industrial), and resort communities (primarily for recreation). The Unincorporated Community of Boring is considered a “rural community”.

All the properties surrounding the subject site are also within the Unincorporated Community of Boring. Properties directly to the west of the subject property are zoned RC (Rural Commercial) and RI (Rural Industrial) and one property approximately 115 feet east of the subject property is also zoned RC. All other immediately adjacent properties are zoned RA-1 (Rural Area Residential 1-Acre).

The general area around the subject site is developed with a mix of single-family residential, commercial, industrial, and institutional uses, including a fire station across the street and a post office, bank, and several retail and commercial businesses nearby.

The subject property is also located within an area designated as an urban reserve for the Portland Metro Urban Growth Boundary (PMUGB). Urban Reserves are areas that lie outside an urban growth boundary and have been designated as highest priority for inclusion in an urban growth boundary when additional urban land is needed in the future (see Reserves map, *Exhibit 2*).

Boring Unincorporated Community



Natural Resource Zoning Districts	
	Ag / Forest (AGF)
	Exclusive Farm Use (EFU)
	Timber (TBR)
Residential Zoning Districts	
	Farm Forest 10-Acre (FF-10)
	Rural Residential Farm Forest 5-Acre (RRFF-5)
	Rural Area Residential 2-Acre (RA-2)
	Rural Area Residential 1-Acre (RA-1)
	Future Urban 10-Acre (FU-10)
Commercial Zoning Districts	
	Rural Commercial (RC)

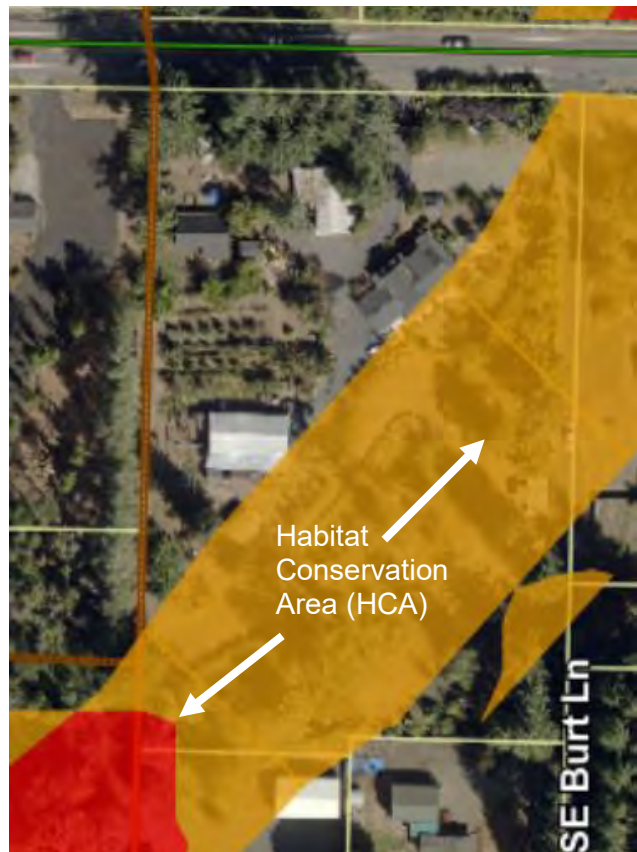
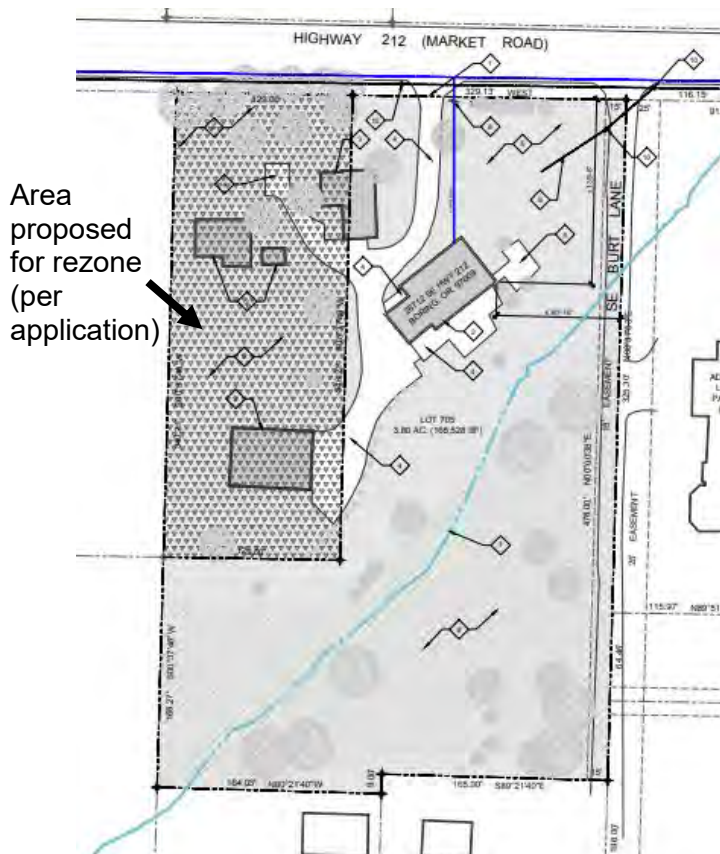
Industrial Zoning Districts	
	Rural Industrial (RI)
Special Zoning Districts	
	Limited Use Zone (LUZ)
	Historic District (HD) Overlay
	Historic Landmark (HL) Overlay
	Mineral and Aggregate Overlay (MAO)
Boundaries	
	Clackamas County
	Urban Growth Boundary
	Unincorporated Community
	Mt. Hood National Forest
	City Boundaries

Proposal

The applicant proposes to change the Comprehensive Plan map and zoning designation for approximately one acre of the 3.8-acre parcel. The portion proposed for the change is located in the northwest corner of the site and has approximately 129 feet of frontage on Highway 212. Based on the applicants proposed site plan, this area contains one dwelling, the well house and a part of the storage structure that was converted from a manufactured home.

Staff is unaware of any rules that would specifically prohibit the placement of a zoning line across an existing structure; however, given that the generally county would not approve a structure across a zoning line, if the proposed Comprehensive Plan map amendment and zone change are approved, the exact placement of the line would need to be adjusted so as to avoid that structure or the structure itself would need to be removed.

In addition, the applicant asserts that this area to be changed does not contain any wetlands or habitat protected areas, specifically the mapped Habitat Conservation Area (HCA). Based on the approximate location of the HCA, illustrated on the map to the right (below), it appears that a small portion of the HCA is actually within the southern portion of the area to be rezoned. Staff notes this simply for clarity; the presence of HCA does not preclude approval of the proposed amendment.



Service providers:

1. Sewer: The subject property is not located within a public or private sewer district. Septic systems would be required for any future development, subject to Clackamas County’s Septic and Onsite Wastewater Program’s rules and regulations.
2. Water: Boring Water District
3. Fire Protection: Clackamas RFPD #1

Noticing: This application has been processed consistent with the legal noticing requirements in Section 1307, *Procedures*, of the County’s Zoning and Development Ordinance (ZDO) and with state noticing requirements. Specifically, the County has provided notice to interested agencies, local governments and property owners within 2,640 feet of the subject property consistent with State law and Section 1307 of the ZDO. The notification to property owners, public notices and hearings ensures an opportunity for citizens to participate in the land use process.

Responses received: To date, the only comments received have been from the Oregon Department of Transportation (ODOT) and the county’s Engineering staff regarding the applicant’s traffic study. ODOT notes the traffic analysis recommends that vehicle trips generated from the site be limited to no more than 400 average daily trips and states that ODOT would support a condition of approval for this trip cap. County Engineering staff states that they also concur with the traffic findings and would support the trip cap.

The local Community Planning Organization, the Boring CPO, has not provided any comments to Planning staff. The application does, however, contain a letter, dated February 15, 2024, that states the applicant had informed the CPO of their intention to apply for this zone change and the CPO members had voted unanimously in support of the application.

Public Hearings:

Two public hearings on the current proposal are scheduled: one before the Planning Commission on August 26, 2024, and another before the Board of County Commissioners (BCC) on September 25, 2024. The Planning Commission makes a recommendation to the BCC, who will ultimately decide whether the proposal is approved.

III. FINDINGS

This application is subject to the following provisions:

- A. Statewide Planning Goals;
- B. Clackamas County Comprehensive Plan; and
- C. Zoning and Development Ordinance (ZDO) Sections 202, 1202, and 1307.

Staff have reviewed these provisions and the Applicant’s preliminary findings in conjunction with this proposal. Compliance with the applicable regulations found in each is discussed below. ZDO Sections 202 and 1307 provide only definitions and procedural requirements that do not warrant separate written findings in this report.

A. Statewide Planning Goals

GOAL 1 – CITIZEN INVOLVEMENT

Statewide Planning Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process” and requires the County to have a citizen involvement program with certain features.

This application only proposes to amend the County’s Comprehensive Plan maps and zoning maps and even if approved, the County’s existing, State-acknowledged citizen involvement program would not change.

Section 1307, Procedures, of the ZDO contains adopted and State-acknowledged procedures for citizen involvement and public notification of quasi-judicial applications. This application has been processed consistent with those requirements, including providing notice to: property owners within 2,640 feet of the subject property; the Department of Land Conservation and Development (DLCD); Metro; the Boring CPO; and other interested agencies. Notice of the application and its public hearings has also been published in the newspaper and on County websites.

Before the Board of County Commissioners (BCC) can decide on this application, there will have been at least two public hearings with opportunity for interested parties to testify. The public has also been given the opportunity to provide written comments, and all comments provided to-date have been included in the record.

The relevant requirements of Statewide Planning Goal 1 are satisfied.

GOAL 2 – LAND USE PLANNING

Goal 2 requires the County to have and to follow a comprehensive land use plan and implementing regulations. Comprehensive plan provisions and regulations must be consistent with Statewide Planning Goals, but Goal 2 also provides a process by which exceptions can be made to certain Goals.

The proposed amendment to Clackamas County’s Comprehensive Plan maps, including to Map 4-07a, would not change the County’s land use planning process. Even under the Applicant’s proposal, the County will continue to have a comprehensive land use plan and consistent implementing regulations. This report outlines how this proposal is consistent with applicable policies of the County’s State-acknowledged Comprehensive Plan. The Applicant does not request an exception to any Statewide Planning Goal, nor is an exception required for this proposal.

The relevant requirements of Statewide Planning Goal 2 are satisfied.

GOAL 3 – AGRICULTURAL LANDS

Goal 3 requires the County to identify farmland, designate it as such on its Comprehensive Plan maps, and zone it Exclusive Farm Use (EFU).

The County has already satisfied these Goal 3 requirements. This application does not propose to change the Comprehensive Plan Map designation or zoning of any farmland, nor does it propose a change in any allowed land use in the EFU zoning district. The subject is within an urban reserve and is currently zoned for residential development, not agriculture.

Statewide Planning Goal 3 is not applicable.

GOAL 4 – FOREST LANDS

Goal 4 requires the County to identify forest lands, designate it as such on Comprehensive Plan maps, and zone it consistently with State rules.

The County has already satisfied its Goal 4 requirements for forest land. This application does not propose to change the Comprehensive Plan Map designation or zoning of any forest land, nor does it propose a change in any allowed land use in its forest zoning districts (i.e., Ag/Forest and Timber Districts). The subject is within an urban reserve and is currently zoned for residential development, not forest.

Statewide Planning Goal 4 is not applicable.

GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

Goal 5 requires the County to adopt programs that will protect an area's natural resources and will conserve scenic, historic, and open space resources for present and future generations. It requires an inventory of natural features, groundwater resources, energy sources, and cultural areas, and encourages the maintenance of inventories of historic resources.

This proposal would not change the County's adopted and acknowledged programs for the protection of such resources, nor would it change the County's adopted and acknowledged historic resources inventory. While the subject property does contain a mapped Habitat Conservation Area, approval of this application would not itself authorize any development nor change the applicability of ZDO Section 706 (Habitat Conservation Area District) to potential future development on the property. The application does not propose to reduce or otherwise modify the boundaries of any open space areas.

The relevant requirements of Statewide Planning Goal 5 are satisfied.

GOAL 6 – AIR, WATER, AND LAND RESOURCES QUALITY

Goal 6 instructs the County to consider the protection of air, water, and land resources from pollution and pollutants when developing its Comprehensive Plan.

The proposal in this application would not change any Comprehensive Plan policy or implementing regulation affecting a Goal 6 resource, nor would it modify the mapping of any protected resource.

The relevant requirements of Statewide Planning Goal 6 are satisfied.

GOAL 7 – AREAS SUBJECT TO NATURAL HAZARDS

Goal 7 requires the County to address Oregon's natural hazards.

This proposal would not change the County's adopted and acknowledged Comprehensive Plan policies or implementing regulations regarding natural disasters and hazards, nor would it modify the mapping of any hazard. As noted previously, the subject site is flat and has no mapped mass-movement or soil hazard areas and is not in a mapped flood hazard area.

Statewide Planning Goal 7 is not applicable.

GOAL 8 – RECREATIONAL NEEDS

Goal 8 requires the County to plan for the recreational needs of its residents and visitors.

The proposal would not change any existing, State-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource.

Statewide Planning Goal 8 is not applicable.

GOAL 9 – ECONOMIC DEVELOPMENT

The purpose of Goal 9 planning is to provide adequate opportunities throughout Oregon for a variety of economic activities vital to the health, welfare, and prosperity of Oregonians.

Goal 9 is implemented by Oregon Administrative Rules (OAR) Chapter 660, Division 9. Pursuant to OAR 660-009-0010(1), the requirements of Division 9 are only applicable to areas within urban growth boundaries (UGBs). As noted, the subject property is not within an urban area and therefore Goal 9 is not directly applicable to this proposal. Nonetheless, approval of the proposal would further the purpose of Goal 9 by providing a small developable commercial site in an area that is well-served by the transportation system, thereby increasing economic opportunities for the county.

This proposal is consistent with Goal 9.

GOAL 10 – HOUSING

The purpose of Goal 10 is to meet housing needs.

Goal 10 recommends that the County's Comprehensive Plan (including its land use designation maps) "should be developed in a manner that insures the provision of appropriate types and amounts of land" within UGBs for housing; it also advises that areas planned for residential development "be necessary and suitable for housing needs of households of all income levels". And, like Goal 9, Goal 10 is only directly applicable to areas within urban growth boundaries (UGBs).

Nonetheless, staff finds that the potential loss of one dwelling is negligible in relation to the county's housing stock, particularly in light of the numerous recent efforts by the county to allow for more housing units within the PMUGB – a more appropriate place for housing because of better access to urban goods and services and transportation options. Furthermore, the portion of the site proposed for rezoning already contains a dwelling. The applicant has not stated an intent to remove that dwelling and in fact, the RC one allows for a dwelling as an accessory use, making it highly unlikely there would any loss of dwellings to the county's housing stock.

This proposal is consistent with Statewide Planning Goal 10.

GOAL 11 – PUBLIC FACILITIES AND SERVICES

The purpose of Goal 11 is to ensure that local governments plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Goal 11 is implemented by OAR Chapter 660, Division 11.

No changes to adopted facilities plans or implementing regulations are proposed in this application. The subject site is currently served by public water but not by public sewer. The applicant has provided Statements of Feasibility from the subject site's water and stormwater service providers. The statements attest that there are already adequate services available to the properties to accommodate rural commercial uses, or that adequate services could be made available concurrent with future industrial development.

The relevant portions of Statewide Planning Goal 11 are satisfied.

GOAL 12 – TRANSPORTATION

The purpose of Goal 12 is to provide and encourage a safe, convenient, and economic transportation system. It requires the County to create a transportation system plan (TSP) that takes into account all relevant modes of transportation.

Goal 12 is implemented by OAR Chapter 660, Division 12, commonly referred to as the "Transportation Planning Rule" (TPR). When an amendment to the County's Comprehensive Plan maps or zoning map is proposed, Rule 60 of the TPR requires an analysis of whether the proposed amendment would "significantly affect" an existing or planned transportation facility, and whether it is necessary to update transportation facility plans to accommodate such effects. The TPR defines what it means to "significantly affect" a transportation facility.

The Applicant has provided a traffic memorandum, prepared by a licensed engineering firm, Ard Engineering, and dated December 4, 2023. The submitted memorandum addresses TPR requirements and includes a comparison of the reasonable worst-case traffic impacts caused by potential development of approximately one acre of the subject property under the property's current RA-1 zoning to the reasonable worst-case traffic impacts of future development under the proposed RC zoning. Key findings from the traffic analysis include:

- "Oregon's Transportation Planning Rule (OAR 660-012-0060) requires that when a plan amendment (such as a zone change) is proposed for a property, a determination must be made as to whether the amendment would result in a "significant effect" on the transportation system...."
- "It is anticipated that the proposed zone change may significantly impact the operation of the surrounding transportation system under the reasonable worst case development scenario" However, the memorandum further notes that any proposed amendment that does not increase the average daily trips by more than 400 falls beneath the threshold for a "small increase" in traffic and would also fall below the standard of "significant impact", as per Policy 1F5 of the Oregon Highway Plan (OHP).
- The memorandum therefore concludes: "Based on the trip generation analysis, an unrestricted zone change to RC would result in an increase of up to 2,788 average daily trips, which is well above the threshold designated as a small increase in traffic. However the actual proposed use of the property [a drive-through coffee "kiosk"] falls below the 400-trip threshold identified in the Oregon Highway Plan. While an unrestricted zone change would likely result in a significant effect on the transportation system requiring a detailed analysis and mitigation application of a trip cap on the subject property would allow the desired development to proceed while ensuring that future development will not result in a significant effect on the surrounding transportation system. Accordingly a trip cap of 400 average daily trips is proposed for the one-acre parcel zoned 'RC'."

Both ODOT and county Engineering staff provided comments, concurring with these conclusions and noting support for a trip cap of 400 average daily trips (see Exhibits 4 and 5).

With mitigation, the relevant requirements of Statewide Planning Goal 12 can be satisfied.

GOAL 13 – ENERGY CONSERVATION

Goal 13 encourages land use plans to consider lot size, siting controls, building height, density, and other measures in order to help conserve energy.

The Applicant's proposal would not change any policy or implementing regulation regarding energy conservation.

The relevant requirements of Statewide Planning Goal 13 are satisfied.

GOAL 14 – URBANIZATION

The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject property is not located within an urban growth boundary (UGB), but is located in a designated urban reserve. However, as detailed in Section III.B, because the subject property is currently exception land, a zone change that would "allow new uses", may be allowed if certain conditions are met, including no smaller lot sizes. The subject proposal would meet all of the required condition if the minimum lot size in the RC zone is limited to one acre. Limiting the minimum lot size in this way will serve two purposes:

- 1. It will be no different than what is existing and therefore would have no impact on the ability for orderly and efficient transition from rural to urban land; and*
- 2. It will allow the proposal to meet criteria in the Oregon Administrative Rules (OARs) and the county Comprehensive Plan that are required for the zone change.*

The relevant requirements of Statewide Planning Goal 14 are satisfied.

GOAL 15 – WILLAMETTE RIVER GREENWAY

The purpose of Goal 15 is 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 approximately 12 miles from the Willamette River and is not located in the Willamette River Greenway. The Applicant's proposal would not change any existing, State-acknowledged County Comprehensive Plan policy or implementing regulation regarding the Willamette River Greenway.

Statewide Planning Goal 15 is not applicable.

GOAL 16 – ESTUARINE RESOURCES; GOAL 17 – COASTAL SHORELANDS; GOAL 18 – BEACHES AND DUNES; GOAL 19 – OCEAN RESOURCES

Statewide Planning Goals 16 through 19 are not applicable to Clackamas County.

B. Clackamas County Comprehensive Plan (Plan)

The County's Comprehensive Plan includes goals and policies that must be considered when evaluating a proposed change in Comprehensive Plan. Staff has reviewed each chapter of the Comprehensive Plan. In this section of the report and recommendation, Staff provides written findings as to how the Applicant's proposal is consistent with only those chapters, goals, and policies that were found to be applicable to this specific proposal.

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 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 interested agencies, local governments and nearby property owners, consistent with State law and Section 1307 of the ZDO, which implements public notification policies of Chapter 2. The notification to property owners, public notices and hearings ensures an opportunity for citizens to participate in the land use process.

This application is consistent with Chapter 2.

Chapter 4 Land Use: This Section of the Comprehensive Plan includes 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 Sections addressing; 1) Urbanization; 2) Urban Growth Concepts; and 3) Land Use Policies for the each Land Use Plan designation. The Land Use Policies for the proposed Land Use Plan designation are addressed below.

Rural Commercial

Per Chapter 4 of the county's Comprehensive Plan, Rural Commercial lands "are those that are outside urban growth boundaries and that are suitable based on specific factors for commercial development on a rural scale." The following policies apply to Rural Commercial lands.

4.KK Rural Commercial Policies

- 4.KK.1 The Rural Commercial plan designation may be applied in non-urban areas to provide for commercial uses that are necessary for, and on a scale commensurate with, rural development.

The subject property is located in a non-urban area (outside any urban growth

boundary). The commercial uses that are allowed within a Rural Commercial (RC) area, per Section 513 of the county's Zoning and Development Ordinance (ZDO) are those that have been determined as appropriate for rural areas and commensurate with rural development. In addition, rural commercial development on the subject site would be further limited to an even smaller scale even most than other RC-zoned sites in the county because of the "trip cap" that is necessary to address impacts to the transportation system.

This policy is met.

- 4.KK.2 The Rural Commercial (RC) zoning district implements the Rural Commercial plan designation.

*If this proposal is approved, both the Plan designation and zoning designation would be changed to Rural Commercial. **This policy is met.***

- 4.KK.3 Areas may be designated Rural Commercial when either the first or both of the other criteria are met:

- 4.KK.3.1 Areas shall have an historical commitment to commercial uses; or
- 4.KK.3.2 Areas shall be located within an Unincorporated Community; and
- 4.KK.3.3 The site shall have direct access to a road of at least a collector classification.

*The subject property does not have a historical commitment to commercial uses (it currently contains residential uses), but, as discussed, the subject site is located within an Unincorporated Community. The subject site has frontage on and direct access to Highway 212, a road designated as a principal arterial in the county's Comprehensive Plan (Map 5-4b). A principal arterial is a higher road classification than a collector. As such, **this policy is met.***

Urban Reserve

Through the proposed Comprehensive Plan map amendment and zone change, new uses would be allowed within one the county's designated urban reserves. Therefore, the following policies also apply to this proposal:

- 4.E.1.1 Lands within a designated Urban Reserve area shall continue to be planned and zoned for rural uses in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when these lands are included in the Urban Growth Boundary. Planning and zoning shall be done in a manner consistent with OAR 660-021-0000 and the Metro Code, in areas where Metro has jurisdiction.

*By changing an acres of the subject site from RA-1 to RC, the site will continue to be planned and zoned for rural uses – rural commercial rather than rural residential. As discussed below, it will be necessary to impose a minimum lot size of one acre on the RC portion of the site; this condition will ensure the zone change is consistent with the relevant OARs and, by retaining the same minimum lot size as currently exists on the site, it will also ensure the land remains available for the orderly provision of services if it is included into an urban growth boundary. As such, **this policy is met.***

4.E.2.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance or the Comprehensive Plan Map or zoning designations:

4.E.2.3.1 To allow within Urban Reserve areas, new uses that were not allowed on the date the Urban Reserve areas were designated, except those uses authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

4.E.2.3.2 To allow within Urban Reserve areas, the creation of new lots or parcels smaller than allowed on the date Urban Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

Staff finds that it is possible to allow for these new uses, because of the exceptions allowed under Oregon Administrative Rules (OAR) 660-027-0070, Planning of Urban and Rural Reserves, for the following reasons:

- *Policy 4.E.2.3 was adopted into the county's Comprehensive Plan and became effective August 25, 2010. At the time OAR 660-027-0070 did not include any exceptions to the prohibition to allowing new uses.*
- *However, beginning in October 2010, the Land Conservation and Development Commission (LCDC) adopted several amendments to this rule that included various exceptions to the prohibition. Because these exceptions were adopted after the county's policy was adopted, it is possible to apply them directly from the Rules.*
- *The current language in OAR 660-027-0070 (5) is included below, with staff's findings associated with each section:*

(5) Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:

Approval of this proposal would allow new uses on lands within an urban reserve and within the Unincorporated Community of Boring. As noted previously, Unincorporated Communities include lands that are, by definition, exception lands and are not subject to Goals 3 (Agriculture) and 4 (Forest). This Rule allows for the alteration or expansion of uses on exception lands within an urban or rural reserve in certain circumstances. Although the Rule does not explicitly define "alteration or expansion", based on County Counsel's rulemaking history research, the staff and Counsel have concluded that that the Rule was intended to allow the alteration or expansion not just of a discrete "use" in an exception area but of "the uses" that are allowed in the exception area, provided the criteria in subsections (a) to (d) are met.

(a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;

This proposal would allow new uses only in an existing exception area, not land zoned for farm, forest or mixed farm and forest use. This criterion is not applicable.

(b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;

This proposal would allow for an expansion of uses in a certain Exception areas. OAR 660-004-0018(2) specifies that within exception areas, "all plan and zone designations shall limit uses, density and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable (d)." In this case (c), included below, is applicable:

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

The relevant portions of OAR 660-022-0030 follow:

(1) For rural communities, resort communities and urban unincorporated communities, counties shall adopt individual plan and zone designations reflecting the projected use for each property (e.g., residential, commercial, industrial, public) for all land in each community. Changes in plan or zone designation shall follow the requirements to the applicable post-acknowledgment provisions of ORS 197.610 through 197.625

(4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:

(a) Uses authorized under Goals 3 and 4;

(b) Small-scale, low impact uses;

(c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

First, this proposal is be processed consistent with the post-acknowledgement provisions of ORS 197.610 through 197.625, including the required public notices and public hearings.

Second, within the Unincorporated Community of Boring, all properties are zoned to reflect existing or projected uses of the property. Changing a portion of the subject property to RC would reflect the proposed use of a drive-through coffee shop on the site, a use that is allowed under the county's ZDO Section 513, Rural Commercial.

And finally, by amending the zoning of the subject property, the county would be allowing "new commercial uses" within this Unincorporated Community. As noted, the use proposed by the applicant is a drive-through coffee "kiosk". This use would be small-scale and would serve both the surrounding community as well as people passing through the area. Even if the site ends up developed with being something different than what the applicant currently envisions, it would meet the standards under (4) because:

- *Any new development in the RC portion of the site would need to comply with the allowed uses, development standards, and maximum size limits in the RC zone; and*
- *Development on the site will be kept particularly small scale because of the 400 daily trip cap that will be imposed on this zone change.*

(c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and

Approval of this proposal would not alter or expand the boundaries of an exception area. This criterion is met.

(d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.

The current zoning of the subject site (RA-1) would allow for lots as small as one acre in size. The proposed RC zone does not have a minimum lot size in the area of the subject property and the reference to OAR chapter 660, division 29 does not apply to commercial zoning districts. Therefore this proposal could only be consistent with this Rule and with Plan policy 4.E.2.3.2, if there is a minimum lot size of one acre imposed on the RC portion through a condition of approval. Further, because Section 1012 of the county's ZDO allows an exception to the minimum lot size for the division of a parcel along certain comprehensive plan boundaries, the RC portion of the subject site must contain at least one acre. A condition of approval will be imposed to reflect that as well.

With conditions, this criterion can be met.

*For all of the above reasons, staff finds that the proposed Comprehensive Plan map amendment and zone change can be consistent with the exceptions listed under OAR 660-027-0070 and therefore the **proposal is consistent with Comp Plan policy 4.E.2.3.***

Unincorporated Communities

4.II.1 Limit commercial uses to:

- 4.II.8.1. Uses authorized under Statewide Planning Goals 3 and 4;
- 4.II.8.2. Small-scale, low-impact uses as defined in OAR 660-022-0030(10); and
- 4.II.8.3. Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

*This policy is identical to the language in OAR 660-022-0030. As discussed above, proposed development on the acre of the subject site that would be rezoned to RC would meet these standards. **This policy is met.***

4.II.2 Encourage commercial and industrial uses to locate in Unincorporated Communities to provide employment opportunities to residents of the communities and the surrounding non-urban area.

*This proposal would provide an opportunity for the development of a small commercial use within the unincorporated community of Boring, which could provide for employment opportunities for local residents. **This policy is met.***

This application is consistent with Chapter 4.

Chapter 5 Transportation: This Chapter outlines policies addressing all modes of transportation and contains eight Sections including 1) Foundation and Framework; 2) Land Use and Transportation; 3) Active Transportation; 4) Roadways; 5) Transit; 6) Freight, Rail, Air, Pipelines and Water Transportation; 7) Finance and Funding; and 8) Transportation Projects and Plans.

The only policy found in this chapter that is relevant to this application is found in the Roadways section.

Policy 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]

The Applicant's submitted traffic analysis, which was completed by a licensed engineer, finds that the County's existing and planned transportation system is not expected to be adequate to serve an "unlimited" zone change to Rural Commercial (RC), but the proposal could comply with the Transportation Planning Rule if the number of daily trips that development on the property generated is "capped" at 400. A recommended condition of approval had been included to limit future development to this level of daily traffic generation (a "trip cap").

Staff from the Oregon Department of Transportation (ODOT) and county Engineering concur with the findings from the traffic analysis (see Exhibits 4 and 5).

With conditions, this application can be consistent with Chapter 5.

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.

In the City, Special District and Agency Coordination Section of this Chapter, one policy is applicable:

Policy 11.A.1 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 all appropriate agencies and parties, and advertised public hearings before the Planning Commission and the Board of County Commissioners provide an adequate opportunity for interagency coordination of this proposed Comprehensive Plan map amendment and demonstrates compliance with this policy.

This application is consistent with Chapter 11.

C. Zoning & Development Ordinance (ZDO)

Section 1202, *Zone Changes*, of the County's ZDO provides standards, criteria, and procedures under which a change to the zoning maps (i.e., a zone change from RA-1 to RC) may be approved. Staff has reviewed the subsections of Section 1202 relevant to this application and makes the following findings and conclusions.

Section 1202.02, Submittal Requirements

Subsection 1202.02 of the ZDO lists the information that must be included in a complete application for a Zone Change.

The application was submitted on May 15, 2024 and deemed complete on June 10, 2024.

Section 1202.03, General Approval Criteria

Section 1202.01 states that a zone change may be allowed, after a hearing conducted pursuant to Section 1307, if the applicants provide evidence substantiating the following criteria found in Subsection 1202.03 are met.

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

*Findings against the relevant Comprehensive Plan policies are detailed in the Section III.B of this Staff Report (pages 14 to 18). Based on those findings and findings provided by the applicant, staff finds that the proposed zone change is or can be made compliant with all relevant goals and policies in the Comprehensive Plan and, therefore, **is consistent with ZDO Subsection 1202.03(A)**.*

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.

Development that could occur under the proposed RC zoning district would not have access to or need public sewer. The subject property is not located in a public sanitary sewer district and an onsite septic system would be required for development on the site.

The development would have access to public water, provided through the Boring Water District. The applicant has submitted a signed Preliminary Statement of Feasibility dated March 6, 2024, indicating that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution.

This application is consistent with 1202.03(B).

1202.03(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.

ZDO Subsections 1202.03(C)(1)-(7) define what is meant by an “adequate” transportation system. The Applicant’s submitted traffic analysis memorandum, which was completed by a licensed engineer, finds that the County’s existing and planned transportation system is not expected to be adequate to serve an “unlimited” zone change to Rural Commercial (RC), but the proposal could comply with the Transportation Planning Rule if the number of daily trips that development on the property generated is “capped” at 400. A recommended condition of approval had been included to limit future development to this level of daily traffic generation (a “trip cap”).

Both ODOT and county engineering staff concur with the findings of the traffic analysis (Exhibits 4 and 5). As noted by county Engineering staff: “The technical memo adequately addressed ZDO 1202.03, subsection (C) (transportation system adequacy) by demonstrating that a trip cap of 400 daily site trips would result in no significant effect under the TPR.”

As conditioned, this application can be consistent with 1202.03(C).

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

The applicant’s traffic memorandum includes an analysis of the safety of the transportation system, which included consideration of “crash data for the site frontage and an additional 500 feet in each direction”. Based on the crash data, the memorandum concludes that

- *“Based on the historical crash data, there are no evident safety concerns within the site frontage under existing conditions;” and*
- *“Further, based on the crash history and turn-lane warrant analysis it is anticipated that future development of the commercial property with a coffee kiosk will not result in the need for significant safety improvements at the site access location on Oregon Highway 212”.*

As noted by county engineering staff, the traffic memorandum “adequately addressed ZDO 1202.03, subsection (D) - safety adequacy. The crash history did not reveal elevated crash frequency or severity in the vicinity of the site and no safety mitigations are recommended.”

This application is consistent with 1202.03(D).

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 DRehard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? |翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

**PLANNING COMMISSION
DRAFT MINUTES**

August 26, 2024

Meeting held online via Zoom

Commissioners present: Carrie Pak, Gerald Murphy, Tom Peterson, Michael Wilson, Louise Lopes, Tammy Stevens, Brian Lee, Ryan Founds, Jennifer Satter

Commissioners absent: None

Staff present: Martha Fritzie, Jennifer Hughes, Darcy Renhard

Commission Chair Murphy opened the meeting at 6:31 pm.

New Planning Commissioners introduced themselves. Staff and current Planning Commissioners also provided brief introductions.

Chair Murphy asked if there was anyone in the audience who wished to provide public comment on items other than what is on the agenda. There were none.

Chair Murphy opened the public hearing for file numbers Z0197-24-ZAP and Z0198-24-CP. These are for a comprehensive plan map amendment to change one acre on the subject property located at 28712 SW Hwy 212 in Boring from Unincorporated Community Residential to Rural Commercial and for a corresponding zone change from Rural Area Residential One-acre to Rural Commercial. No development is proposed with this application. Any future development would be subject to design review. The property consists of a single 3.8-acre tax lot. Only one acre of the site is proposed for rezoning.

Ms. Fritzie provided the staff report for the proposal. The site is relatively flat and is currently developed with two single family dwellings and several accessory structures. There is a habitat conservation overlay on a portion of the property that affects the southeastern swatch of the property. The area proposed for rezoning is in the northwest corner of the property, so any development done in that area would not impact the conservation overlay area. The surrounding zoning is Rural Commercial and Rural Industrial to the west, and mostly single-family residential developments to the east, north and south.

County staff only received two comments in response to the public notice. The comments were from ODOT and the County's Engineering Division, both of which agreed with the findings in the applicant's transportation analysis.

Several Statewide Planning Goals are applicable, as well as Comprehensive Plan goals and policies. Additionally, there are the zone change criteria found in the Zoning & Development Ordinance (ZDO) that are also applicable. There are four main criteria that we look at under ZDO Section 1202 related to zone changes. The first is that the proposed zone change must be consistent with the applicable goals and policies of the Comprehensive Plan. Chapters 2 and 11 of the Comp Plan contain procedural and coordination policies, which staff has found were followed. In Chapter 5 there is a policy that specifies that any zone change must comply with the Transportation Planning Rule (also Statewide Planning Goal 12). The applicant is required to provide a traffic study and to coordinate with the County's Engineering Division. In this case they are also required to work with ODOT. The traffic analysis provided by the applicant basically said that this zone change would likely violate the Transportation Planning Rule unless there is some sort of mitigation. In this case, that mitigation would be to impose a trip cap on any future development in the Rural Commercial zone.

Comp Plan Chapter 4 lays out the criteria for designation changes, specifically under policy 4.KK. The first criteria is that the land has to be in a non-urban area, which this is. The second criteria is that it must either have a historical commitment to commercial uses (which this property does not) or, if it is within an unincorporated community (which this property is), it must have direct access to a road of at least a collector classification. This property has direct access to Highway 212 which is a principal arterial. The property meets the second criteria. Policy 4.E.2.3 states that the County may not allow new uses in urban reserves unless it meets certain exceptions found in state law (OAR 660-027-0070).. Staff has reviewed all these exceptions and finds that the proposal can meet all the listed exceptions. Therefore the relevant policies under Chapter 4 are met. Staff is recommending that a trip cap of 400 average daily trips be imposed to meet all the transportation system requirements. Both ODOT and the County's Engineering Division concurred with these findings. Staff recommends approval of this proposal subject to the conditions listed in the staff report.

Commissioner Stevens asked if there are a lot of lands within Clackamas County that are unincorporated communities and also within the reserves. Ms. Fritzie replied that there are not. She is fairly certain that the Boring unincorporated community is the only one in an urban reserve. Commissioner Stevens wanted to know if this might be opening the door for other properties in the urban reserves that are not able to do what they want with their properties. Ms. Fritzie explained that the exceptions under state law are pretty limiting and also the county's Comprehensive Plan policies would still need to be met. That would mean there are only two choices for a rural commercial designation: the property would either need to have a historic commitment to a commercial use or be in an unincorporated community. This severely limits the number of properties that would qualify.

Commissioner Pak is concerned that the applicant might divide the property later on and encroach on the wetland that appears to be there. Ms. Hughes replied that there is a maximum square foot disturbance area of 5,000 square feet in the habitat conservation area (HCA). At least for residential development. This does not mean that you can disturb 5,000 square feet of the HCA, it means that you get to disturb 5,000 square feet on the whole property. The disturbance must happen outside the HCA first. It may also vary based on how valuable the habitat is.

Commissioner Lee asked if the trip cap would restrict the development on the property. Ms. Fritzie said that it is a way of naturally limiting the types of businesses or development that could locate on the property. In theory though, anything listed as a use in the rural commercial zone could be allowed on the property. Commissioner Lee also expressed concern that the line for the zone change appears to run through an existing structure and possibly a septic tank and drain field. Ms. Fritzie said that we typically are changing the zoning for an entire property, so it is not one of our submittal criteria. But he is correct, a condition of approval would have to be that the line not go through a structure or sewage disposal system.

Commissioner Lopes asked when land within the County began being designated with HCAs. Ms. Hughes answered that it was in January of 2009. The County was required to adopt these conservation areas to be consistent with Metro's Title 13. They were based on maps that Metro provided, as the County did not have the resources to do the mapping at that time. If you look at Metro's code, specifically Title 13 of what is called the Urban Growth Management Functional Plan, you will see where these conservation areas were applied.

There were no government agencies to provide testimony.

The applicant, Mr. James Kenney, and his consultant provided an explanation of what they wanted to develop within the proposed commercial zone. Mr. Kenney would like to build a drive-through coffee kiosk.

They would avoid all wetland areas, and the proposed development area is set back far enough away from the wetland area that they do not feel it would be impacted at all. They have no plans to partition the 3 lots. The boundary line can be redrawn so that it is not running through a structure. Mr. Kenney understands the importance of habitat conservation and making sure that we take care of our land. When they bought the property in 2011 it required an extensive amount of solid waste to be cleaned up. There is a 1930 farmhouse on the property that is currently uninhabitable, but they have no intention of using it as a dwelling. This proposal will not remove any available housing from the County.

Commissioner Peterson asked why they only wanted to rezone one acre of the property, and why not just rezone the entire property? Mr. Kenney responded that he and his wife live on the property. He does not want any neighbors moving in closer to him, they enjoy their privacy and their garden. There are commercial properties on either side of him, and they would like to just be able to work the little coffee shop and continue living on their property. One acre seems to be sufficient to do that.

Commissioner Lee pointed out that the applicant's materials state that there would be around 180 trips generated per day, but in the staff recommendation the trip cap is 400. Ms. Fritzie explained the 180 daily trips is what comes out of the ITE manual as the average number of daily trips that a coffee kiosk with a drive through window would generate. The 400 comes from the Transportation Planning Rule. So if whatever you are proposing is generating fewer than 400 average daily trips, it is determined by default as not creating a significant impact. Commissioner Lee expressed his concern over the traffic trying to make turns to cross the highway when trying to turn into the property. Is there adequate right of way there, and would ODOT allow the fix? Ms. Hughes said that it would be something that we need to evaluate, because right now it does not look like they have sufficient right of way. Mr. Kenney stated that he has spoken with ODOT, and that they would require him to give them 119 feet by 21 feet of the property for them to make alterations for a center lane, shoulder lane, and bike lane. He would also have to put in a sidewalk along the entire front of the property. Once he has the survey done, it takes 4 months for the State to take it over and another 4 to 6 months for them to actually recognize it as their property.

Lee Brookhart (property owner directly across the street) – Mr. Brookhart is not opposed to the project, but he is concerned about the safety of the road. He would like to know if the added turn lane would creep onto his property.

Ms. Hughes provided follow-up to Commissioner Pak's question on the HCA. There is a percentage of the subject property that can be disturbed up to a maximum. She explained how the calculations work based on the different uses on the property and the category of the HCA (high value, moderate value, etc.).

Commissioner Stevens does not have any concerns with the proposal, although it sounds very complicated. She does not think that this is something that is going to impact the various rural residential areas of Clackamas County within a reserve. There are certainly issues, but they have been brought up this evening.

Commissioner Lee would like to see some modifications to the conditions of approval. He would like a note added that the zone line not go through structures or the septic tank and drain field. He would also like to see the trip cap lowered to 200.

Commissioner Peterson thinks that the conditions that Commissioner Lee recommended seem appropriate. It seems to him that the reason they are only asking to rezone one acre of the property is so that they don't impact the habitat area. He is in support of the proposal with the conditions that Commissioner Lee suggested.

Commissioner Satter agrees with the conditions that Commissioner Lee suggested.

Commissioner Founds is fine with the application as it was with the conditions from ODOT. He would be fine with the proposal either way.

Commissioner Wilson feels that this proposal is fine with the 400 trip cap and does not think it should be reduced.

Commissioner Pak is not in favor of the proposal mainly because of concerns with the conservation area.

Commissioner Lopes is undecided. She has concerns about the conservation area as well.

Commissioner Murphy agrees with Commissioners Peterson, Lee, and Stevens. The road does need improvements, but the conditions discussed would help make that happen.

Commissioner Stevens moved to approve file numbers Z0197-24-CP and Z0198-24-ZAP but with the following modifications: the trip cap would change from 400 to 200 and assure that no part of the current and future drain field of the septic system is crossing over any of the boundaries. Commissioner Lee seconded the motion.

(Ayes=6 Stevens, Peterson, Founds, Satter, Lee, Murphy; Nays=3 Pak, Lopes, Wilson ; Abstain=0. Motion passes)

Commissioner Wilson nominated Commissioner Peterson to be the new Chair and Commissioner Murphy as Vice-Chair. Commissioner Stevens seconded.

Commissioner Peterson as new Chair *(Ayes=9; Nays=0. Motion passes)*

Commissioner Murphy as new Vice-Chair *(Ayes=9; Nays=0. Motion passes.)*

We will have an in-person study session on October 14th or 28th, depending on which date works best for everyone's schedules.

There being no further business, the meeting was adjourned at 9:23 pm.

**Exhibit List
In The Matter Of File Nos. Z0197-24-ZAP & Z0198-24-CP**

Ex. No.	Date Received	Author or source	Subject & Date of document
1*	05/15/24	Applicant (James Kenney)	Submitted Application 05/15/24, deemed complete 06/10/24
2*	---	Planner of Record (M Fritzie)	Maps: Metro Area Urban & Rural Reserves and Assessor's map for subject property
3*	07/23/24	Valerie Liljefelt, Clackamas County Fire District	Email noting that the fire district has no comments for the zone change.
4*	08/15/24	Marah Danielson, Oregon Dept. of Transportation (ODOT)	Comments in support of condition of approval for a trip cap of 400 average daily trips (ADT) for the proposed zone change
5*	08/15/24	Christian Snuffin, County Engineering	Concurs with traffic study findings – supports trip cap condition
6**	09/4/24	Christian Snuffin, County Engineering	Discussion about trip cap and left turn lane analysis. Concludes trip cap below 400 ADT may not have basis
7**	09/05/24	Marah Danielson, Oregon Dept. of Transportation (ODOT)	Supports trip cap on 400 ADT. Unable to comment on requirement for left turn lane until development proposed.
8**	09/17/24	Jerry Wyatt, on behalf of Applicant (James Kenney)	Revised site plan showing area proposed for rezoning, existing structures, and septic system areas.
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* Exhibits received prior to or during Planning Commission (PC) hearing

** Exhibits received after PC hearing and prior to or during Board of County Commissioners (BCC) hearing



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 22, 2024

Notice Sent to: Applicant; property owners within 2,640 feet of the subject property; and applicable cities, Community Planning Organizations (CPOs), special districts, and government agencies

Please note that the Planning Commission is holding land use public hearings virtually using the Zoom platform, and that the Board of County Commissioners is holding land use public hearings both in person and virtually using the Zoom platform.

Table with 2 columns: Hearing Type and Hearing Details. Rows include Planning Commission Hearing and Board of County Commissioners Hearing, each with date, time, and attendance information.

Planning File Numbers: Z0197-24 and Z0198-24

Applicant(s): James Kenney

Property Owner(s): James Kenney & Tammy Kenney

Proposal: A Comprehensive Plan map amendment to change the land use plan designation for a portion of the subject property from Unincorporated Community Residential (UCR) to Rural Commercial (RC), with a corresponding zone change from Rural Area Residential 1-Acre (RA-1) to Rural Commercial (RC) to allow for future development of rural commercial uses.

Subject Tax Lot: T2S, R4E, Section 06BA Tax Lot 00705

Situs Address: 28712 SE HWY 212, Boring

Location of Subject Property: On the south side of HWY 212, approximately 1,200 feet (0.23 miles) east of its intersection with SE 282nd Ave.

Area of Subject Property: Approximately 3.8 acres, only 1.007 acre of which is proposed for redesignation and rezoning

Current Zoning: Rural Area Residential 1-Acre (RA-1)

Approval Criteria: Statewide Planning Goals; Clackamas County Comprehensive Plan; and Clackamas County Zoning and Development Ordinance (ZDO) Sections 202, 513, 1202, and 1307.

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.

HOW TO OBTAIN ADDITIONAL INFORMATION

Staff Contact: Martha Fritzie, Principal Planner (Tel: 503-742-4529, Email: mfritzie@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 inspection at no cost. In addition, a staff report on the application will be available for inspection at no cost at least seven days prior to the Planning Commission hearing. 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, Martha Fritzie (see above);
2. Visiting the Planning & Zoning Division, at the address shown at the top of the first page of this notice, during regular business hours, which are Monday-Thursday, 8:00am to 4:00pm; or
3. Online at https://accela.clackamas.us/citizenaccess/. After selecting the "Planning" tab, enter the File Number to search. Select Record Info and then select "Attachments" from the dropdown list, where you will find the submitted application.

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 Community Involvement Office at 503-655-8552. CPO: Boring CPO, Michael Fitz, fitz@staroilco.net

HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested parties are invited to attend the Zoom hearings remotely online or by telephone, and to attend the Board of County Commissioners hearing in person. They will be provided with an opportunity to testify orally, if they so choose. One week prior to each hearing, additional instructions will be available online as explained on the first page of this notice.
Written testimony received by August 12, 2024, 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, regular mail, or hand delivery. Please include the case file numbers (Z0197-24 and Z0198-24) on all correspondence and address written testimony to the staff contact who is handling this matter (Martha Fritzie).
Testimony, arguments, and evidence must be directed toward the approval criteria identified on the first page of this notice. Failure to raise an issue 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 HEARINGS

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 evidentiary 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.

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.

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TYPE II OR III LAND USE APPLICATION

DEEMED COMPLETE

ORIGINAL DATE SUBMITTED: <input style="width: 200px;" type="text" value="5/15/24"/>
FILE NUMBER: <input style="width: 250px;" type="text" value="Z0197-24 & Z0198-24"/>
APPLICATION TYPE: <input style="width: 500px;" type="text" value="ZONE CHANGE & COMPREHENSIVE PLAN MAP AMENDMENT"/>

The Planning and Zoning Division staff deemed this application complete for the purposes of Oregon Revised Statutes (ORS) 215.427 on:

Staff Name

Title

Comments:

Application not subject to 120- or 150-day rule.

Check one:

The subject property is located inside an urban growth boundary. The 120-day deadline for final action on the application pursuant to ORS 215.427(1) is:

The subject property is not located inside an urban growth boundary. The 150-day deadline for final action on the application pursuant to ORS 215.427(1) is:



Planning and Zoning
Department of Transportation and Development
Development Services Building
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503-742-4500 | zoninginfo@clackamas.us
www.clackamas.us/planning

STAFF USE ONLY

RECEIVED

May 15 2024

Clackamas County
Planning & Zoning Division

Z0197-24

Staff Initials:

File Number:

Land use application for:

ZONE CHANGE

Reviewed by Hearings Officer

APPLICANT INFORMATION

Table with applicant details: Applicant name (James Kenney), Applicant email (edward@rivermarway.com), Applicant phone (360-936-5905), Applicant mailing address (PO Box 94), City (Borner), State (OR), ZIP (97009), Contact person name (Tammy Kenney), Contact person email (tammy@comcast.net), Contact person phone, Contact person mailing address (PO Box 94), City, State (OR), ZIP (97009).

PROPOSAL

Brief description of proposal: go from RA2 to RC. Pre-application conference file number: File # ZPA006-23

SITE INFORMATION

Site address: 28712 SG Hwy 212. Comprehensive Plan designation, Zoning district, Map and tax lot #, Township: 29, Range: E06, Section: BA, Tax Lot: 705. Adjacent properties under same ownership.

Printed names of all property owners: James Kenney, Tammy Kenney. Signatures of all property owners: James Kenney, Tammy Kenney. Date(s): 05.02.2024. 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. Applicant signature: James C Kenney. Date: 5-6-24



Planning and Zoning
 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

STAFF USE ONLY

Staff Initials: _____ File Number: _____

Land use application for:

ZONE CHANGE

Reviewed by Hearings Officer

APPLICANT INFORMATION			
Applicant name: <u>James Kenney</u>	Applicant email: <u>edouard.rivera.marquez@clackamas.us</u>	Applicant phone: <u>360-936-5905</u>	
Applicant mailing address: <u>PO Box 94</u>	City: <u>Boring</u>	State: <u>OR</u>	ZIP: <u>97009</u>
Contact person name (if other than applicant): <u>Tammy Kenney</u>	Contact person email: <u>Tammy.Kenney@comcast.net</u>	Contact person phone:	
Contact person mailing address: <u>PO Box 94</u>	City: <u>@comcast.net</u>	State: <u>OR</u>	ZIP: <u>97009</u>

PROPOSAL	
Brief description of proposal: <u>go from RA-1 to RC.</u>	Pre-application conference file number: <u>File # ZPA006-23</u>

SITE INFORMATION		
Site address: <u>28712 SE Hwy 212</u>	Comprehensive Plan designation:	Zoning district:
Map and tax lot #: Township: <u>29</u> Range: <u>E06</u> Section: <u>BA</u> Tax Lot: <u>705</u>	Land area:	
Adjacent properties under same ownership: Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners: <u>James Kenney</u> <u>Tammy Kenney</u>	Signatures of all property owners: <u>James Kenney</u> <u>Tammy Kenney</u>	Date(s): <u>05.02.2024</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.		
Applicant signature: <u>James C Kenney</u>		Date: <u>5-6-24</u>



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

STAFF USE ONLY

Staff Initials: _____ File Number: _____

Land use application for:

ZONE CHANGE
 Reviewed by Hearings Officer

APPLICANT INFORMATION			
Applicant name: <u>James Kenney</u>	Applicant email: <u>edouard@rivermarwedge.com</u>	Applicant phone: <u>360-936-5905</u>	
Applicant mailing address: <u>PO Box 94</u>	City: <u>Bonney</u>	State: <u>OR</u>	ZIP: <u>97009</u>
Contact person name (if other than applicant): <u>Tammy Kenney</u>	Contact person email: <u>Tammy.Kenney</u>	Contact person phone:	
Contact person mailing address: <u>PO Box 94</u>	City: <u>@comcast-net</u>	State: <u>OR</u>	ZIP: <u>97009</u>

PROPOSAL	
Brief description of proposal: <u>go from RA-1 to RC.</u>	Pre-application conference file number: <u>File# ZPAE006-23</u>

SITE INFORMATION		
Site address: <u>28712 S.G. Hwy 212</u>	Comprehensive Plan designation:	Zoning district:
Map and tax lot #: Township: <u>29</u> Range: <u>E06</u> Section: <u>BA</u> Tax Lot: <u>705</u>	Land area:	
Adjacent properties under same ownership:		
Township: _____ Range: _____ Section: _____ Tax Lot: _____		
Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners: <u>James Kenney</u> <u>Tammy Kenney</u>	Signatures of all property owners: <u>James Kenney</u> <u>Tammy Kenney</u>	Date(s): <u>05.02.2024</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.		
Applicant signature: <u>James C Kenney</u>		Date: <u>5-6-24</u>

CLACKAMAS COUNTY PLANNING AND ZONING

Applicant's Submittals

Permit Type: Comprehensive Plan map amendment & zone change

File No. ZPAC0061-23

Proposal: Comprehensive Plan map amendment from UCR (Urban Unincorporated Community Residential) to RC (Rural Commercial) and corresponding zone change from RA-1 (Rural Area Residential, 1 acre) to RC (Rural Commercial)

Pre-application Conference Date: July 19, 2023

Staff Contact: Martha Fritzie, 503-742-4529, mfritzie@clackamas.us

Applicant: James Kenney

Assessor's Map and Tax Lot Number: 24E06BA00705

Site Address: 28712 SE Hwy 212, Boring, 97009

Current Zoning: RA-1 (Rural Area Residential, 1 acre)

Exhibits

1. Aerial
 2. Vicinity Topography
 3. Clackamas County Zoning Map Up Close
 4. Clackamas County Zoning Map of the Entire City
 5. Vicinity Map
 6. Site Plan
 7. Tax Lot 705 Map, Description and Assessed Land Value
 8. Land Use Application Form
 9. Pre-Application Comments
 10. Feasibility Statements
 11. ARD Engineering Traffic Study
 12. Boring Community Planning Organization Letter
 13. Zone Change Map Requested Area
-

INTRODUCTION AND SUMMARY OF REQUEST

This application is a request to rezone 1.007 acre of the 3.80-acre site from Comprehensive Plan map UCR (Urban Unincorporated Community Residential) to RC (Rural Commercial) and corresponding zone change from RA-1 (Rural Area Residential, 1 acre) to RC (Rural Commercial). The subject property is Tax Lot 24E06BA00705. The property is located at 28712 SE Hwy 212, Boring.

Zone Change

With the zone change and the comprehensive map change the property would be consistent with Clackamas County Comprehensive Plan. If development under the proposed zone no additional services would be required. That includes the following public services (sanitary sewer, surface water management, and water). All could be accommodated with the implementation of the applicable service provider's existing capital improvement plan. This change would not impede or negatively impact any of the adjacent or properties in close proximity.

SECTION 1202 ZONE CHANGES

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:

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

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.

Applicants Response: This narrative and supporting documents demonstrate why this zone change is appropriate for the area base on the proposed use of the land, adjacent property usage, transportation impacts and compliance with all requirements. The requested zone change, and the comprehensive map change the property is requested at the same time so that it would be consistent with Clackamas County Comprehensive Plan. Adequate public facilities are services are available. This zone change is consistent with the Zone Change Chapter. The Comprehensive Plan change would support this zone change. Adjacent properties are zoned (RC) commercial. comparison of uses in each zone clearly shows uses allowed adjacent and near the property. The location of the land relative to urban centers, transportation corridors, and existing urban infrastructure is a critical determinant of its suitability for urban development. When evaluating whether a proposed use accompanying a zone change can be considered rural, factors such as the scale of development, land footprint, and infrastructure demands must be considered. Size refers to the physical dimensions of the development, including building footprint, lot size, and overall land area required. Intensity relates to the level of activity or density associated with the proposed use, such as the number of occupants, traffic generated, and environmental impact. Rural uses typically encompass activities such as agriculture, forestry, and low-density residential development. That public facilities and services providing for water and sewage disposal will be limited to the types and levels of service available and appropriate to the property. The proposed comprehensive map and zone change and use of the property would not impermissibly

affect the ability of nearby UGBs to perform their urbanization function. The subject property is located off of an Arterial Street and adjacent to Commercially zoned property. The change will not change the density.

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.

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

Applicants Response: The applicant agrees that ensuring the safety of the transportation systems is paramount when considering proposed zone changes and with any anticipated increased with development. This was a critical aspect and in consideration of various factors, including road capacity, traffic flow, pedestrian safety, and infrastructure adequacy were considered. The comprehensive traffic impact analysis gave the applicant certainty to move forward in the request for the designation change. The traffic analysis considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering. With any development application the applicant will further assess the adequacy of existing transportation infrastructure to accommodate the anticipated level of development resulting from development. This will includes evaluating road capacity, signage, lighting, pedestrian crossings, and bicycle lanes. With any development identifying any deficiencies in infrastructure is crucial for addressing safety concerns and ensuring that the transportation system can effectively serve the increased demand. By conducting thorough analyses, addressing infrastructure needs, prioritizing pedestrian and cyclist safety, coordinating with transportation agencies, and engaging the public, the applicant submits that the existing transportation system effectively supports the proposed designation change.

I. APPLICABLE STATE AND COUNTY STANDARDS

A. Statewide Planning Goals and Oregon Revised Statutes (ORSs) and Oregon Administrative Rules(OARs)

Applicants Response: This Comprehensive Plan map amendment and zone change is consistent with all applicable Statewide Planning (SWP) Goals and implementing Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs).

County Comprehensive Plan

4.E.2 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 27, as shown on Map 4-9:

4.E.2.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance or the Comprehensive Plan Map or zoning designations:

4.E.2.3.1 To allow within Urban Reserve areas, new uses that were not allowed on the date the Urban Reserve areas were designated, except those uses authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas. [emphasis added]

4.E.2.3.2 To allow within Urban Reserve areas, the creation of new lots or parcels smaller than allowed on the date Urban Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

Applicants Response: The request does not create additional lots in the Urban Reserve.

OAR 660-027-0070

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend comprehensive plan provisions or land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB, except as specified in sections (4) through (6) of this rule.

Applicants Response: The request does not add urban reserves to the UGB.

(4) lists specific uses (public master-planned parks, Goal 5 resources, certain roads/transportation facilities, etc).

Applicants Response: N/A

(6) pertains to new/extended sewer systems for health hazards.

Applicants Response: N/A

(5) Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:

- (a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;
- (b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;
- (c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and
- (d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.

Applicants Response: The requested Comprehensive plan map and zone change from RA-1 to RC complies with ORS 215.296, and OAR Chapter 660, division 4. The change in designation would not expand the boundaries of an exception area or create smaller lots than allowed. The uses are allowed within the requested zone designation and the parcel size is not smaller than allowed. The applicant proposes that the approval of the change in designation will allow for orderly and efficient development of urban uses in the areas as the adjacent property to the west is already zoned RC. No exception to Goals 3, 4, 11 or 14 is required. The services are provided to the site and submitted exhibits are attached for supporting documentation. The change in designation will provide for an orderly and efficient transition to urban land use.

Statewide Planning Goals

An applicant must also review and address any applicable SWP Goals in the application narrative.

Goal 12, Transportation

The applicant will be required to submit a traffic study or similar evidence to demonstrate compliance with requirements of the Transportation Planning Rule (TPR), found in Oregon Administrative Rules 660-012-0060, as well as the requirements of ZDO Section 1202.03 and Chapter 5 of the Comprehensive Plan.

Applicants Response: The traffic analysis considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering.

Goal 14, Urbanization

Pre-Application Notes: Goal 14 specifically prohibits urban uses on rural lands, unless an Exception to Goal 14 is taken. If the use is determined to be "urban", a Goal 14 exception is also needed. The applicant will need to provide findings to address why the proposed Plan amendments and zone change would not require a Goal 14 Exception. When making a determination that a Goal 14 exception is not required, case law makes it clear that findings need to be included in a local government's action to explain why the proposed use on rural exception

lands is "rural" and not "urban".

What is "urban" and what is "rural" is not explicitly clear in the context of Goal 14 since the Statewide Planning Goals contain no definition of urban or rural uses. Additionally, while it is clear that OAR 660-004-040 applies to urban development on rural land, "urban development" is not defined in the OARs.

Applicants Response: As outlined in the preapplication meeting and documentation that the applicant acknowledges that what is "urban" and what is "rural" is not explicitly clear in the context of Goal 14 since the Statewide Planning Goals contain no definition of urban or rural uses. Additionally, while it is clear that OAR 660-004-040 applies to urban development on rural land, "urban development" is not defined in the OARs. The proposed change is designation is allowed as public facilities and services as outlined in the Unincorporated Communities and not interfere with the efficient function of the urban growth boundary. The proposed change is designation of the property will not impact or adversely affect agricultural and forest operations and interfere with the efficient functioning of urban growth boundaries. the exceptions process is not applicable unless an exception to a particular goal requirement is needed. A goal exception is not required where it is possible to comply with the statewide planning goal. The provisions cited in relation to a goal exception in the TPR (OAR 660-012-0070) apply to certain transportation improvements on rural lands. The proposed comprehensive plan and zone change include the land where the urban services including transportation facilities are located, thus the converting of the land from rural to urban and urbanizable land has already occurred. As a result, exceptions to goals 3, 4, 11, and 14 are not required. The "Urbanization" goal, is a component of plans aimed at guiding development while considering natural resource protection, environmental conservation, and hazard mitigation. This typically addresses concerns related to land use in areas prone to flooding, landslides, erosion, seismic activity, or other natural hazards as well. Goal 14 Exceptions are waivers granted when proposed developments conflict with policies aimed at protecting these areas, which is not the case with this application. If the proposed change in designation was located in hazard-prone areas, then the findings or a Goal exception should include details of mitigation measures implemented to minimize risks. However, by conducting thorough transportation analysis, environmental assessments, and the existing public infrastructure as well as the adjacent zoning designations the applicant has demonstrated compatibility with Statewide Goals, comprehensive plan policies. ,

Through careful planning, adherence to commission rules, and consideration of community needs, the proposed changes support responsible development while adhering to the principles of Goal 11 and Goal 14.

B. Applicable Zoning and Development Ordinance (ZDO) and Comprehensive Plan (Comp Plan) standards

ZDO Section 1202 (Zone Changes)

Zone changes are subject to the approval criteria in Section 1202.03 of the county's ZDO, which requires the zone change to be:

(A) Comprehensive Plan. Please note that both the Comprehensive Plan amendment and ZDO Section 1202.03(A) require review of Comp Plan and findings to address any applicable policies within the entire Plan.

Chapter 3. Natural Resources and Energy

3.C.6.8 Encourage new public access points to minimize trespass and vandalism on private property. Emphasis shall be directed to the area from Gladstone to Milwaukie.

Habitat Conservation Area Policies

3.D.1 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.

3.D.2 Regulate development in Habitat Conservation Areas, and on parcels that contain Habitat Conservation Areas, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.

3.D.3 Implement Habitat Conservation Area regulations by adopting by reference Metro's Habitat Conservation Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Habitat Conservation Areas model ordinance.

Applicants Response: The zone change requested area avoids all wetlands and Habitat Conservation area. The Habitat Conservation Area and the wetlands on the property has been identified and the owner of the property has created an additional 50' buffer from the outer limits of the wetlands area to minimize erosion and improve the quality of the water. Wetlands restoration on the property has already taken place. This area is protected so that any adjacent development will not alter normal runoff to the wetlands.

3.F Wetlands Policies

3.F.1 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, prevent disturbance of natural wetlands (marshes, swamps, bogs) associated with river and stream corridors. Adjacent development shall not substantially alter normal levels or rates of runoff into and from wetlands. Site analysis and review procedures specified in the Open Space and Floodplains section of the Land Use chapter shall apply. (See Wildlife Habitats and Distinctive Resource Areas of this chapter).

3.F.1.1 Develop guidelines for compatible uses on wetlands and their peripheries, and for wetland restoration. Table 3-1 shall be used as a guide. Wetland restoration decisions shall be made on a site-specific basis.

3.F.1.2 The County recognizes the U.S. Department of the Interior, Fish and Wildlife Service National Wetlands Inventory as a resource document for wetland identification in the County. Individual site development of inventoried lands will be reviewed for compliance with wetlands policies.

3.F.1.3 The County has insufficient information as to location, quality, and quantity of wetland resources outside of the Mt. Hood urban area and the Portland Metropolitan Urban Growth Boundary to develop a management program at this time. If such information becomes available, the County shall evaluate wetland resources pursuant to Goal 5 and OAR Chapter 660, Division 16, prior to the next Periodic Review. In the interim, the County will review all conditional use, subdivision, and zone change applications and commercial and industrial development proposals to assure consistency with Section 1000 of the Zoning and Development Ordinance and goals and policies of Chapter 3 of the Plan.

Applicants Response: The zone change requested area avoids all wetlands and Habitat Conservation area. The Habitat Conservation Area and the wetlands on the property has been identified and the owner of the property has

created an additional 50' buffer from the outer limits of the wetlands area to minimize erosion and improve the quality of the water. Wetlands restoration on the property has already taken place. This area is protected by a 50' buffer so that any adjacent development will not alter normal runoff to the wetlands.

Chapter 4, Land Use.

4.KK.3 Areas may be designated Rural Commercial when either the first or both of the other criteria are met:

- 4.KK.3.1 Areas shall have an historical commitment to commercial uses; or
- 4.KK.3.2 Areas shall be located within an Unincorporated Community; and
- 4.KK.3.3 The site shall have direct access to a road of at least a collector classification.

Applicants Response: The property is located within an unincorporated community and the site has direct access to a road designated as a collector street. The property to the west of the subject property is zoned RC.

4.II.1 The following areas may be designated Unincorporated Communities:

4.II.1.1 Land which has been acknowledged as a Statewide Planning Goal 3 or 4 exception area and historically considered to be part of the community provided the land only includes existing, contiguous concentrations of:

4.II.1.1.a commercial, industrial, or public uses; and/or

Applicants Response: The property is adjacent to area RC zone and the area has commercial establishments with a Bank, Post office, and Fire Station nearby.

4.II.1.1.b dwelling units and associated residential lots at a greater density than exception lands outside Unincorporated Communities;

Applicants Response: N/A

4.II.1.2 Lands planned and zoned for farm or forest use provided such land:

4.II.2 Prohibit the expansion of Unincorporated Communities into areas of natural hazards.

Applicants Response: N/A

4.II.3 Guide management of land use patterns in Unincorporated Communities by policies in this Plan and by those in community plans which are prepared as part of the County's continuing planning program as described in Chapter 11, *The Planning Process*.

Applicants Response: N/A

4.II.4 Require development to be contingent upon the ability to provide public services (e.g., school, water, fire, telephone).

Applicants Response: See feasibility statement. The request is for a comprehensive map and zone change and not development at this time, however public services are available to the property.

4.II.5 Develop roads in a manner and to a level compatible with Unincorporated Communities.

Applicants Response: N/A

4.II.6 Residential uses should be allocated in a manner and to a level that supports the commercial and industrial uses and provides housing opportunities to meet needs while maintaining compatibility with adjacent land use designations.

Applicants Response: N/A

4.II.7 Limit industrial uses to:

Applicants Response: N/A

4.II.7.1. Uses authorized under Statewide Planning Goals 3 and 4;

Applicants Response: The proposed use is authorized under Statewide planning Goals 3 and 4.

4.II.7.2. Expansion of a use existing on December 5, 1994;

Applicants Response: N/A

4.II.7.3. Small-scale, low- impact industrial uses, as defined in Oregon Administrative

Applicants Response: N/A

Rules (OAR) 660-022-0030(11);

4.II.7.4. Uses that require proximity to a rural resource, as defined in OAR 660-004- 0022(3)(a);

4.II.7.5. New uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;

Applicants Response: The site has adequate water and sewer/septic service. Feasibility Statement is provided as Exhibit 10.

4.II.7.6. New uses more intensive than those allowed under Policies 4.JJ.7.1 through 7.JJ.7.5, provided an analysis set forth in this Plan demonstrates, and land use regulations ensure:

4.II.7.6.a That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;

Applicants Response: N/A

4.II.7.6.b That such uses would not rely upon a work force employed by uses within urban growth boundaries; and

Applicants Response: N/A

4.II.7.6.c That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries; and

Applicants Response: N/A

4.II.7.7. Industrial uses, including accessory uses subordinate to industrial development, sited on an abandoned or diminished industrial mill site, as defined in the Clackamas County Zoning and Development Ordinance, provided the uses will be:

4.II.8 Limit commercial uses to:

4.II.8.1. Uses authorized under Statewide Planning Goals 3 and 4;

Applicants Response: Any and all future commercial uses will be authorized under Statewide Planning Goals 3 and 4.

4.II.8.2. Small-scale, low-impact uses as defined in OAR 660-022-0030(10); and 4.II.8.3. Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

Applicants Response: N/A

4.II.9 Encourage commercial and industrial uses to locate in Unincorporated Communities to provide employment opportunities to residents of the communities and the surrounding non-urban area.

Applicants Response: N/A

4.II.10 Require design review for commercial and industrial development.

Applicants Response: All future proposed commercial development will be proposed through a required design review.

4.II.11 Public facilities in Unincorporated Communities should be expanded or developed only when consistent with maintaining the rural character of the community.

Applicants Response: The applicant that all expanded or developed public facilities will be consistent with maintaining the rural character of the community.

4.II.12 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.

Applicants Response: N/A

4.II.13 Sewage systems shall be contained within Unincorporated Community boundaries and shall not be allowed to expand to land outside of such boundaries, except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites or otherwise consistent with Policy 7.A.9.

Applicants Response: N/A

Chapter 5, Transportation

To address this chapter and sections 1202.03(C) and (D) of the ZDO applicants are required to provide a traffic study.

Applicants Response: The traffic analysis considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering.

(B) Services – water and surface water management).

Applicants Response: The site is within the Boring Water District, but not within Boring's sewer district. Water service is available to the property and septic is provided.

(C) Adequacy of transportation system

- Applicable OARs for the Transportation Planning Rule
- Policies in Chapter 5 of the Comprehensive Plan
- Specifics in 1202.03(C)

Applicants Response: The traffic analysis considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering. The proposed comp plan and zone change will not significantly impact traffic patterns within a community. With the converting of the subject property from residential to commercial the density of development is not impacting the potential traffic. The traffic analysis was performed to assess the compatibility of proposed zone changes with existing transportation infrastructure and to anticipate future needs.

(D) Safety of transportation system

Applicants Response: The traffic analysis submitted as Exhibit 11 considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering. When evaluating proposed zone changes, conducting a comprehensive traffic analysis is crucial. In considering the impact on traffic volumes, safety considerations, infrastructure capacity and future growth projections. The application address a thorough traffic analysis which was essential for evaluating the proposed zone changes with existing transportation infrastructure and future needs. The conclusion of the traffic study is that the approval of the comp plan and zone change will have minimum impact on the traffic volume, safety considerations, infrastructure capacity, and future growth projections.

Other Zoning (ZDO) Considerations

- Rural Commercial (ZDO Section 513) -

Applicants Response: Applicant does not propose to partition the property. The applicant acknowledges that development would require a design review and compliance with the comprehensive zone map and zoning code.

QUESTIONS RAISED BY THE APPLICANT

The applicant has also asked that Staff address the following questions:

1. At the preapplication conference, the applicant asked staff to verify that the two dwellings on his property are both considered legal.

Applicant Response: The applicant acknowledges that based on information included in prior land use approvals (Z0414-17-HMV) and property history files, it has been determined that there are two legal, nonconforming dwellings on this property (a manufactured home placed with a permit in 1986 and a 1930 single family residence). Also, the applicant acknowledges that if either of these dwellings have been removed or is in such disrepair that it cannot be used as a dwelling for more than 12 months, the nonconforming use will be lost, and the property would no longer be eligible for two dwellings (unless partitioned).





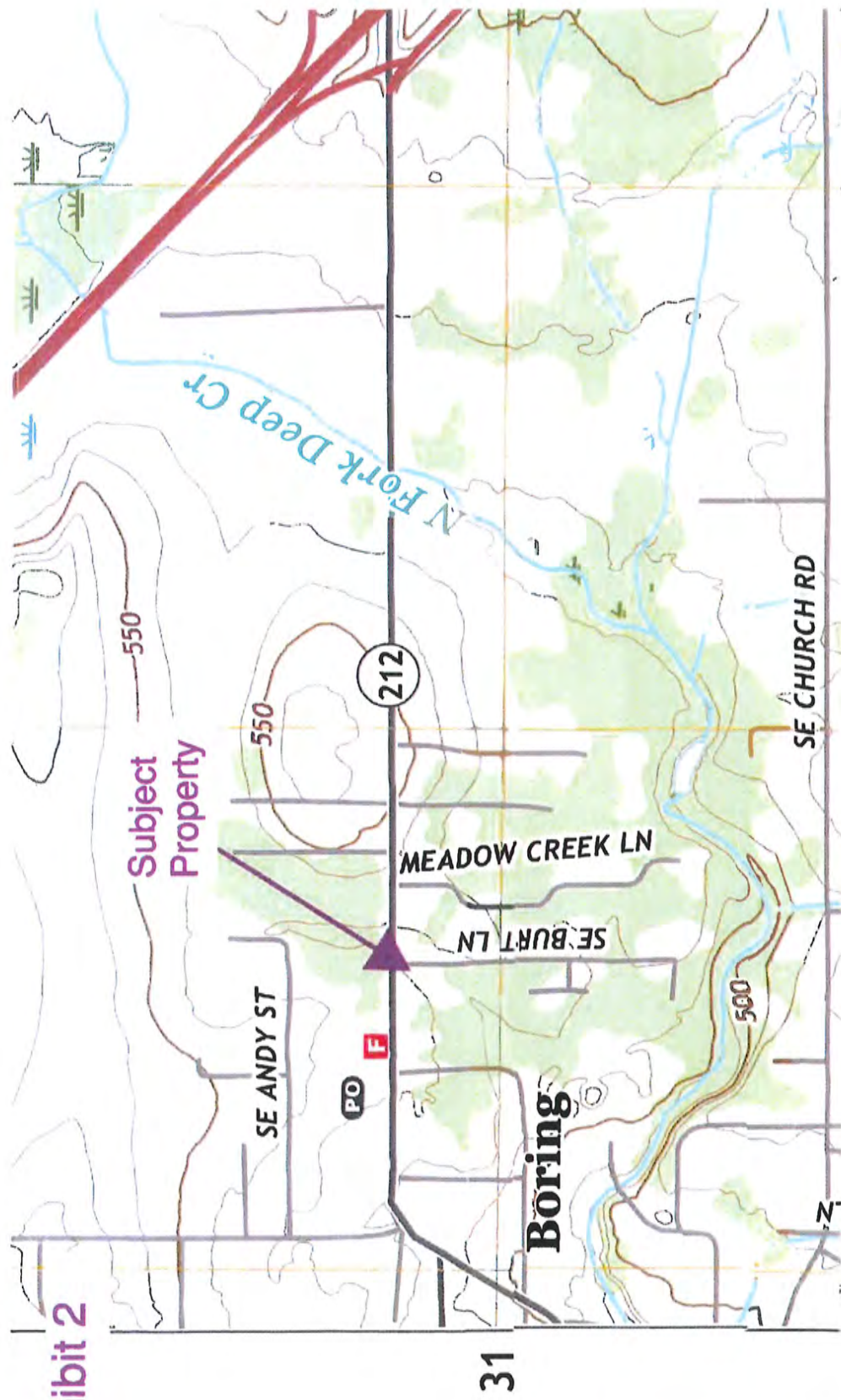
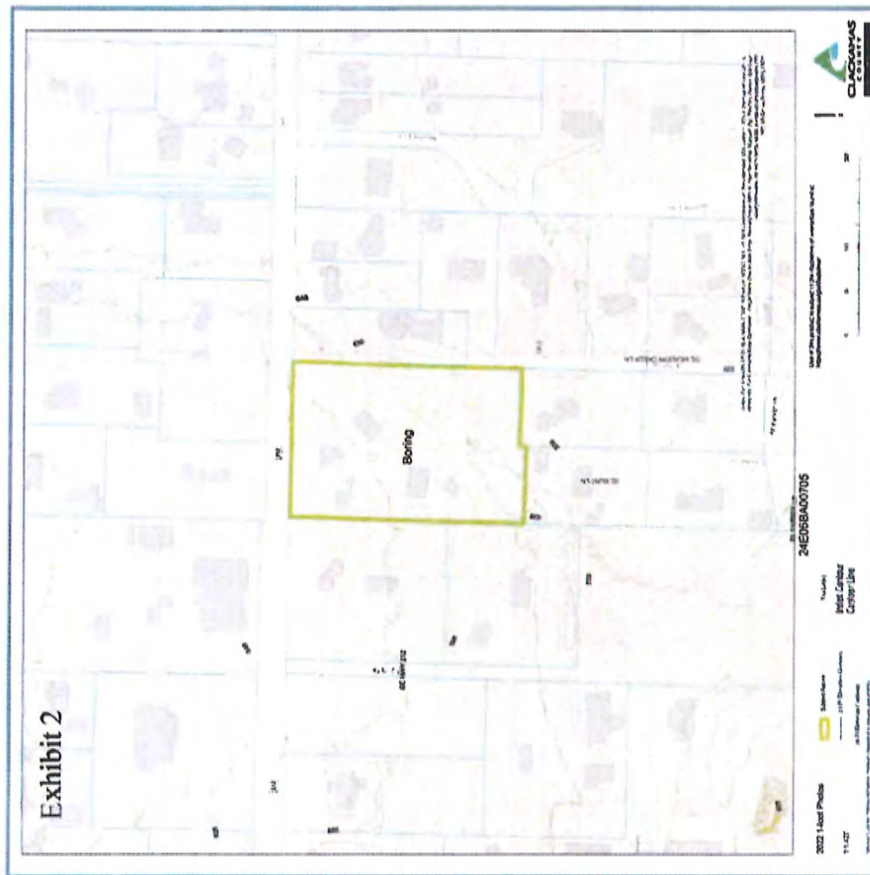


Exhibit 2





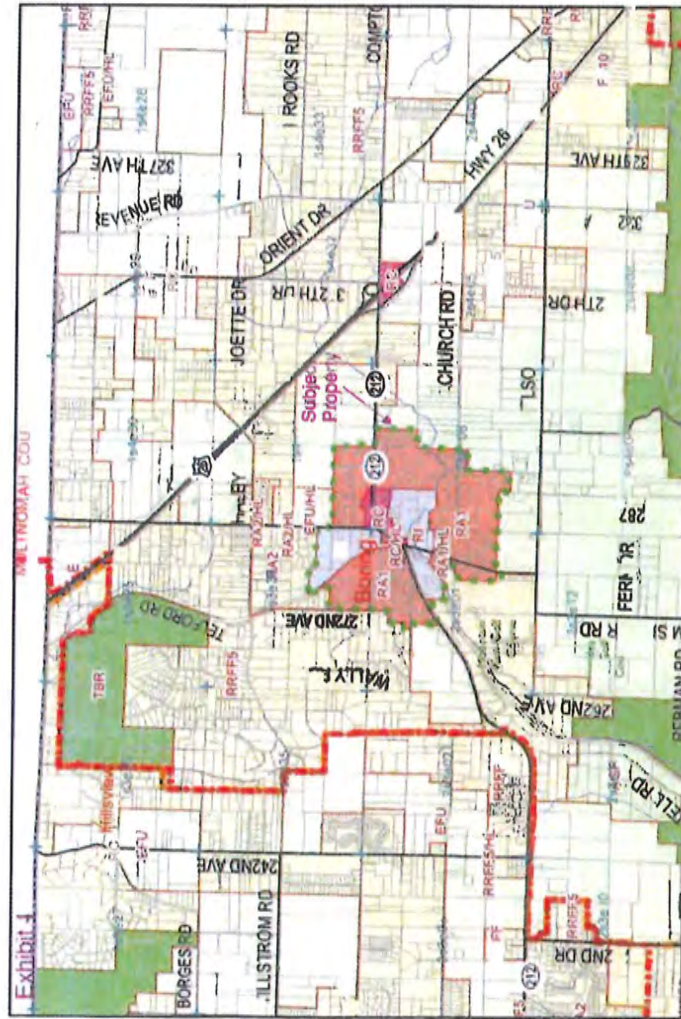


Exhibit 5



VICINITY MAP
SCALE: N.T.S.

GENERAL EXHIBIT INFORMATION: THIS EXHIBIT IS A PRELIMINARY PLAN AND IS NOT A FINAL PLAN. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY OTHER PURPOSE.

EXISTING UTILITIES

- APPROXIMATE LOCATION OF EXISTING WATER SUPPLY LINE
- APPROXIMATE LOCATION OF EXISTING ELECTRICAL SUPPLY LINE

EXISTING UTILITIES

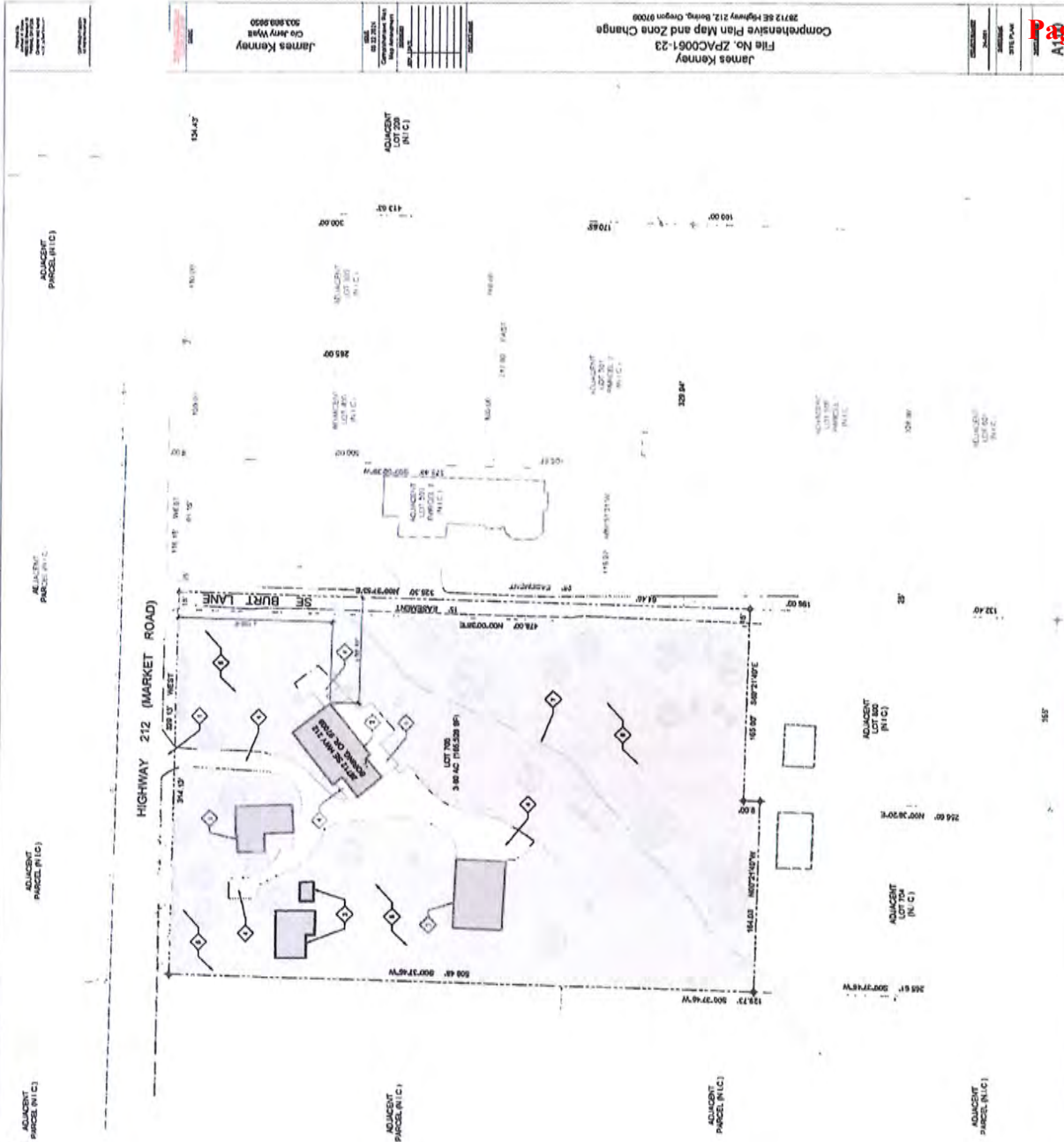
- EXISTING PAVED PROPERTY ACCESS DRIVEWAY
- EXISTING UTILITY STRUCTURE
- EXISTING UNDESIRABLE STORMWATER COLLECTION STRUCTURES
- EXISTING CONCRETE DRIVEWAYS, TROTTWALKS AND PATIO AREAS
- EXISTING LANDSCAPED AREAS
- EXISTING UTILITY STRUCTURES
- EXISTING UTILITY STRUCTURES
- EXISTING UTILITY STRUCTURES
- APPROXIMATE LOCATION OF EXISTING ELECTRICAL, TELEPHONE AND GAS

EXISTING UTILITIES

- APPROXIMATE LOCATION OF EXISTING ELECTRICAL, TELEPHONE AND GAS

1 SITE PLAN

1" = 40' Highway 212, Empty Oregon



0000

James Kenney
File No. ZPAC0081-23
Comprehensive Plan Map and Zone Change
28712 SE Highway 212, Boring, Oregon 97009

James Kenney
City of Boring
503.689.0900

Exhibit 6



VICINITY MAP
SCALE: N.T.S.

GENERAL NOTES:
1. ALL INFORMATION IS BASED ON RECORDS AND DATA PROVIDED BY THE APPLICANT AND IS NOT GUARANTEED BY THE CITY OF BORING.
2. THE CITY OF BORING DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED BY THE APPLICANT OR THE CITY OF BORING.

LEGEND:
APPROXIMATE LOCATIONS OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.
APPROXIMATE LOCATIONS OF EXISTING WATER SUPPLY LINE.

SEE DISCUSSION:
APPROXIMATE AREAS OF EXISTING MAJOR SITE TREES

APPROXIMATE LOCATIONS OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.

APPROXIMATE LOCATIONS OF EXISTING WATER SUPPLY LINE.

APPROXIMATE LOCATIONS OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.

APPROXIMATE LOCATIONS OF EXISTING WATER SUPPLY LINE.

APPROXIMATE LOCATIONS OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.

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APPROXIMATE LOCATIONS OF EXISTING WATER SUPPLY LINE.



1 SITE PLAN
1" = 40' Highway 212, Boring, Oregon

- 1. 28712 SE Highway 212, Boring, Oregon 97009
- 2. 28712 SE Highway 212, Boring, Oregon 97009
- 3. 28712 SE Highway 212, Boring, Oregon 97009
- 4. 28712 SE Highway 212, Boring, Oregon 97009
- 5. 28712 SE Highway 212, Boring, Oregon 97009
- 6. 28712 SE Highway 212, Boring, Oregon 97009
- 7. 28712 SE Highway 212, Boring, Oregon 97009
- 8. 28712 SE Highway 212, Boring, Oregon 97009
- 9. 28712 SE Highway 212, Boring, Oregon 97009
- 10. 28712 SE Highway 212, Boring, Oregon 97009

Exhibit 7

Objectid: 94556
Primary Address: 28712 SE Hwy 212, Boring, 97009
Jurisdiction: Clackamas County
Map Number: 24E06BA
Taxlot Number: 24E06BA00705
Parcel Number: 01492236
Document Number: 2011-053518
Census Tract: 023300
Landclass: 541



Assessment

Estimated Acres: 3.80
Current Year Assessed Value: \$384,683.00
Market Building Value: \$601,490.00
Market Land Value: \$339,935.00
Market Total Value: \$941,425.00
Sq Ft: 1396
Bedrooms: 2
Baths: 1
Year Built: 1930
Sale Price: \$225,000.00
Doc Date: 09/12/2011
Doc Type: S
Taxcode: 046024

Schools

Public Safety

Zoning & Development

Designation: RA1
Urban Growth Boundary: OUTSIDE



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

RECEIVED
May 15 2024
Clackamas County
Planning & Zoning Division
Z0197-24
Staff Initials: File Number:

Land use application for:

ZONE CHANGE

Reviewed by Hearings Officer

Application Fee: \$6,340 if filed with another application for the same property, or \$6,890 if filed alone. (+ \$150 for an expanded notification area if the property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRRF-5, or TBR zone.)

APPLICANT INFORMATION
Applicant name: James Kenney
Applicant email: columbiarivermariner@yahoo.com
Applicant phone: 360.936.5905
Applicant mailing address: P.O. Box 44
City: Boring
State: OR ZIP: 972009
Contact person name (if other than applicant):
Contact person email:
Contact person phone:
Contact person mailing address:
City:
State: ZIP:

PROPOSAL
Brief description of proposal: Comprehensive Plan map amendment from UCR (Urban Unincorporated Community Residential) to RC (Rural Commercial) and corresponding zone change from RA-1
Pre-application conference file number: ZPAC0061-23

SITE INFORMATION
Site address: 28712 SE Hwy 212
Comprehensive Plan designation: Outside UGB
Zoning district: RA-1 (Rural Area Residential, 1 acre)
Map and tax lot #: Township: 24 Range: E06 Section: BA Tax Lot: 705
Land area: 3.80
Adjacent properties under same ownership:
Township: Range: Section: Tax Lot:
Township: Range: Section: Tax Lot:

Printed names of all property owners: James Kenney
Signatures of all property owners:
Date(s): 05.02.2024

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.
Applicant signature:
Date:

A. Complete a pre-application conference:

You must attend a pre-application conference with Planning and Zoning staff before filing this application. [Information about the pre-application conference](#) process and a request form are available from the Planning and Zoning website.

B. Review applicable land use rules:

This application is subject to the provisions of [Section 1202, Zone Changes](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

C. Turn in all of the following:

- Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.
- Application fee:** The cost of this application is **\$6,340 if it is filed concurrently with another land use application for the same property** or **\$6,890 if it is filed alone**. A \$150 notification surcharge also applies if an expanded notification area is required by ZDO Section 1307. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- Vicinity map:** Provide a map of the area around the property, drawn to scale, that shows the uses and location of improvements on adjacent properties and properties across any road.
- Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
 - Lot lines, lot/parcel numbers, and acreage/square footage of lots, and contiguous properties under the same ownership;
 - All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
 - Setbacks of all structures from lot lines and easements;
 - Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
 - Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
- Service Feasibility Determinations:** Request that the property's water provider, sanitary sewer provider, and surface water management authority, as applicable, each complete a [Preliminary Statement of Feasibility](#) and include those completed statements with your application. If the proposed development will be served by an onsite wastewater treatment system (e.g., a septic system), include an approved Site Evaluation or Authorization Notice from the [Septic & Onsite Wastewater Program](#) attesting to the feasibility of your proposal.
- Transportation impact study:** Refer to the information provided at the pre-application conference regarding the need for a transportation impact study. Include a copy of any required study with your application submittal.
- Any additional information or documents advised of during the pre-application conference**

D. Answer the following questions:

1. What zoning district designation are you requesting for the subject property?

Requested zoning district: RC

2. If the zoning designation you requested in response to Question 1 cannot be approved because the property doesn't meet the approval criteria, would you like an alternate zoning district designation to be considered?

NO

YES, and the alternate zoning district designation(s) I would like is/are:

3. Are you filing this zone change application with another application?

NO, this application is being filed alone.

YES, this application is being filed with another application. That other application requests the following:

Comprehensive Plan Map Change to Rural Commercial (RC)

E. Respond in a narrative:

Your application submittal must include a narrative that fully responds to the following. Due to the technical nature of these requirements, guidance on how best to respond will be provided during the required pre-application conference.

1. How is the proposed zone change consistent with the applicable goals and policies of the County's [Comprehensive Plan](#)?
2. If development under the proposed zone would need public services (sanitary sewer, surface water management, and water), could the need be accommodated with the implementation of the applicable service provider's existing capital improvement plan? The cumulative impact of the proposed zone change and development of other properties under existing zoning designations must be considered.
3. Explain how the transportation system is adequate and will remain adequate with approval of the proposed zone change. This explanation should take into consideration the following:
 - a. "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*.
 - b. Conduct the evaluation of transportation system adequacy pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
 - c. Assume that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 - d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
 - e. The adequacy standards apply to all roadways and intersections within the impact area of the proposed zone change. The impact area is identified based on the Clackamas County Roadway Standards.
 - f. A determination of whether submittal of a transportation impact study is required is made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 - g. (d) through (f) above do not apply to roadways and intersections under the jurisdiction of the State of Oregon. Instead, motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for such roadways and intersections.
4. Explain how the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

FAQs:

What is a zone change?

All land in the County has been divided into districts, also known as zones, with specific requirements for how the land can be used, including minimum lot size and other standards for development. A zone change results in a property switching from one zone to another, which changes the property's allowed uses, minimum lot size, and other development standards.

What is the permit application process?

Most zone change permits are subject to a "Type III" land use application process, as provided for in [Section 1307](#) of the ZDO. Type III decisions include notice to owners of nearby land, the Community Planning Organization (CPO) if active, service providers (sewer, water, fire, etc.) and affected government agencies, and, unless otherwise provided by the ZDO, are reviewed at a public hearing before the County Land Use Hearings Officer. If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The County's decision can be appealed to the State Land Use Board of Appeals (LUBA).

What is needed for the County to approve a land use permit?

Zone changes *may* be permitted after an evaluation by the Hearings Officer of applicable standards. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The County approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

How long will it take the County to make a decision about an application?

The County makes every effort to issue a decision on a Type III land use application within 12 weeks (84 days) of when we deem the application to be complete. State law requires a final County decision on a land use permit application in an urban area within 120 days of the application being deemed complete, and within 150 days for a land use permit in a rural area.

If an application is submitted and then withdrawn, will a refund be given?

The fee for this application includes a \$3,830 fee for review by the Hearings Officer, which will be fully refunded if the application is withdrawn before the hearing occurs. If the submitted Type III application is withdrawn before it is publicly noticed, 75% of the portion of the application fee paid that is not the Hearings Officer review fee (i.e., the remainder), or the remainder minus \$250, whichever is less, will be refunded. If a submitted application is withdrawn after it is publicly noticed, but before a staff report is issued, 50% of the remainder, or \$500, whichever is less, will be refunded. No refund on the remainder will be given after a staff report is issued.

Who can help answer additional questions?

For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at **503-742-4500** or zoninginfo@clackamas.us. You can also find information online at the Planning and Zoning website: www.clackamas.us/planning.

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 drenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?

翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



Planning and Zoning
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

STAFF USE ONLY	
RECEIVED	
May 15 2024	
Clackamas County Planning & Zoning Division	Z0198-24
Staff Initials:	File Number:

Land use application for:

COMPREHENSIVE PLAN MAP AMENDMENT & ZONE CHANGE

Application Fee: \$14,920 (+\$150 for expanded notification area if the property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRF-5, or TBR zone)

APPLICANT INFORMATION			
Applicant name: James Kenny	Applicant email: columbiarivermariner@yahoo.com	Applicant phone: 360.936.5905	
Applicant mailing address: 28712 SE Hwy 212	City: Boring	State: OR	ZIP: 97009
Contact person name (if other than applicant): Jerry Wyatt	Contact person email: jwyatt@forensicbuilding.com	Contact person phone: 503.989.9950	
Contact person mailing address: 10321 Kiska Rd SE	City: Jefferson	State: OR	ZIP: 97352

PROPOSAL	
Brief description of proposal: Request zone change from RA-1 to RC and Comp Plan Map change to Rural Commercial	Pre-application conference file number: ZPAC0061-23

SITE INFORMATION		
Site address: 28712 SE Hwy 212	Comprehensive Plan designation: 97352	Zoning district: RA-1
Map and tax lot #: Township: <u>24</u> Range: <u>E06</u> Section: <u>BA</u> Tax Lot: <u>705</u> Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____	Land area: 3.80 Acres	
Adjacent properties under same ownership: Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners: James Kenny	Signatures of all property owners:	Date(s):
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.		
Applicant signature:		Date:

A. Complete a pre-application conference:

You must attend a pre-application conference with Planning and Zoning staff before filing this application. [Information about the pre-application conference](#) process and a request form are available from the Planning and Zoning website.

B. Review applicable land use rules:

This application is subject to the provisions of [Section 1202, Zone Changes](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

C. Turn in the following:

- Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.
- Application fee:** The cost of this application is **\$14,920, plus a \$150 notification surcharge if an expanded notification area is required by ZDO Section 1307**. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- Vicinity map:** Provide a map of the area around the property, drawn to scale, that shows the uses and location of improvements on adjacent properties and properties across any road.
- Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
 - Lot lines, lot/parcel numbers, acreage/square footage of lots, and contiguous properties under the same ownership;
 - All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
 - Setbacks of all structures from lot lines and easements;
 - Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
 - Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
- Service Feasibility Determinations:** Request that the property's water provider, sanitary sewer provider, and surface water management authority, as applicable, each complete a [Preliminary Statement of Feasibility](#) and include those completed statements with your application. If the proposed development will be served by an onsite wastewater treatment system (e.g., a septic system), include an approved Site Evaluation or Authorization Notice from the [Septic & Onsite Wastewater Program](#) attesting to the feasibility of your proposal.
- Transportation impact study:** Refer to the information provided at the pre-application conference regarding the need for a transportation impact study. Include a copy of any required study with your application submittal.
- Any additional information or documents advised of during the pre-application conference**

D. Answer the following questions:

1. What Comprehensive Plan designation are you requesting for the subject property?

Requested Plan designation: Rural Commercial

2. What zoning district designation are you requesting for the subject property?

Requested zoning district: RC

3. If the zoning designation you requested in response to Question 2 cannot be approved because the property doesn't meet the approval criteria, would you like an alternate zoning district designation to be considered?

NO

YES, and the alternate zoning district designation(s) I would like is/are:

4. Are you filing this Comprehensive Plan Map amendment and zone change application with another application (e.g., an application for a partition or subdivision)?

NO, this application is being filed alone.

YES, this application is being filed with another application. That other application requests the following:

D. Respond in a narrative:

Your application submittal must include a narrative that fully responds to the following. Due to the technical nature of these requirements, guidance on how best to respond will be provided during the required pre-application conference.

1. How is your proposal consistent with applicable Statewide Planning Goals?
2. How is your proposal consistent with the applicable goals and policies of the County's [Comprehensive Plan](#)?
3. If relevant, how is your proposal consistent with Metro's Urban Growth Management Functional Plan?
4. If development under the proposed zone would need public services (sanitary sewer, surface water management, and water), could the need be accommodated with the implementation of the applicable service provider's existing capital improvement plan? The cumulative impact of the proposed zone change and development of other properties under existing zoning designations must be considered.
5. Explain how the transportation system is adequate and will remain adequate with approval of the proposed zone change. This explanation should take into consideration the following:
 - a. "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*.
 - b. Conduct the evaluation of transportation system adequacy pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
 - c. Assume that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 - d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
 - e. The adequacy standards apply to all roadways and intersections within the impact area of the proposed zone change. The impact area is identified based on the Clackamas County Roadway Standards.
 - f. A determination of whether submittal of a transportation impact study is required is made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 - g. (d) through (f) above do not apply to roadways and intersections under the jurisdiction of the State of Oregon. Instead, motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the

ODOT Transportation Analysis Procedures Manual for such roadways and intersections.

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

FAQs

What is a Comprehensive Plan Map amendment and zone change?

All land in the County has been divided into mapped Comprehensive Plan designations, each of which corresponds to one or more zoning districts. A Comprehensive Plan Map amendment and zone change results in a property switching from one Comprehensive Plan Map designation and zoning district to another designation and zoning district, which may change allowed uses, minimum lot size, and other development standards.

What is the permit application process?

Comprehensive Plan Map amendments and zone changes that are *not* related to the Historic Landmark, Historic District, and Historic Corridor overlay district are subject to a "Type III" land use application process, as provided for in [Section 1307](#) of the ZDO. Type III decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies, and are reviewed at public hearings before the Planning Commission and the Board of County Commissioners (BCC). If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The County's decision can be appealed to the Oregon Land Use Board of Appeals (LUBA).

What is needed for the County to approve a land use permit?

Comprehensive Plan Map amendments and zone changes *may* be permitted after an evaluation of applicable standards by staff, the Planning Commission, and the BCC. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The BCC approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

How long will it take the County to make a decision about an application?

A final decision on an application for a Comprehensive Plan Map amendment and zone change is generally issued within 24 weeks (168 days) of when we deem the application to be complete. However, these applications are often highly complex and may take longer to process.

If an application is submitted and then withdrawn, will a refund be given?

The fee for this application includes a \$3,830 fee for review by the Hearings Officer, which will be fully refunded if the application is withdrawn before the hearing occurs. If the submitted Type III application is withdrawn before it is publicly noticed, 75% of the portion of the application fee paid that is not the Hearings Officer review fee (i.e., the remainder), or the remainder minus \$250, whichever is less, will be refunded. If a submitted application is withdrawn after it is publicly noticed, but before a staff report is issued, 50% of the remainder, or \$500, whichever is less, will be refunded. No refund on the remainder will be given after a staff report is issued.

Who can help answer additional questions?

For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at [503-742-4500](tel:503-742-4500) or zoninginfo@clackamas.us. You can also find information online at the Planning and Zoning website: www.clackamas.us/planning.

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503-742-4545: ¿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 9

PRE-APPLICATION CONFERENCE SUMMARY

The information contained in this memo is introductory in nature and is designed to act as a guide to relevant Zoning and Development Ordinance (ZDO) and Comprehensive Plan standards. This is an initial review and is based on the information submitted by the applicant for the pre-application conference.

Table 1307-1 of the ZDO identifies if a pre-application conference is mandatory for a particular land use application type. A mandatory conference remains valid if a complete land use application is submitted within two years of the pre-application conference date, and if the proposed use, layout, and design of the proposed development do not change significantly from what was submitted for the conference.

Permit Type: Comprehensive Plan map amendment & zone change

File No. ZPAC0061-23

Proposal: Comprehensive Plan map amendment from UCR (Urban Unincorporated Community Residential) to RC (Rural Commercial) and corresponding zone change from RA-1 (Rural Area Residential, 1 acre) to RC (Rural Commercial)

Pre-application Conference Date: July 19, 2023

Date of this Summary: August 2, 2023

Staff Contact: Martha Fritzie, 503-742-4529, mfritzie@clackamas.us

Applicant: James Kenney

Assessor's Map and Tax Lot Number: 24E06BA00705

Site Address: 28712 SE Hwy 212, Boring

Zoning: RA-1 (Rural Area Residential, 1 acre)

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 drenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?
翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

I. APPLICABLE STATE AND COUNTY STANDARDS

Note to applicant: Pre-application conferences are advisory in nature and are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference. This document is not a land use decision and is not subject to appeal.

A. Statewide Planning Goals and Oregon Revised Statutes (ORSs) and Oregon Administrative Rules(OARs)

A Comprehensive Plan map amendment and zone change must be consistent with all applicable Statewide Planning (SWP) Goals and implementing Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs).

Portland Metro Urban Reserve

Because the property is within one of the Portland Metropolitan Area Urban Reserves, policies and rules specific to changing zoning regulations with these Reserves will need to be addressed in a narrative; the most pertinent are listed below:

County Comprehensive Plan

4.E.2 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 27, as shown on Map 4-9:

4.E.2.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance or the Comprehensive Plan Map or zoning designations:

4.E.2.3.1 To allow within Urban Reserve areas, new uses that were not allowed on the date the Urban Reserve areas were designated, except those uses authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas. [emphasis added]

4.E.2.3.2 To allow within Urban Reserve areas, the creation of new lots or parcels smaller than allowed on the date Urban Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

OAR 660-027-0070

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend comprehensive plan provisions or land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB, except as specified in sections (4) through (6) of this rule. [emphasis added]

(4) lists specific uses (public master-planned parks, Goal 5 resources, certain roads/transportation facilities, etc). None of these are applicable to this proposal

(6) pertains to new/extended sewer systems for health hazards. Also not applicable

(5) Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:

(a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;

(b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;

(c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and

(d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.

Based on county staff and county counsel's current understanding of these OARs, this proposal may be able to meet the exception under (5) because the site is already subject to an exception to Goals 3 & 4. The applicant would need to demonstrate compliance with criteria listed in (5)(a through d).

Statewide Planning Goals

An applicant must also review and address any applicable SWP Goals in the application narrative. In this case, these should include, **at a minimum**:

Goal 12, Transportation

The applicant will be required to submit a traffic study or similar evidence to demonstrate compliance with requirements of the Transportation Planning Rule (TPR), found in Oregon Administrative Rules 660-012-0060, as well as the requirements of ZDO Section 1202.03 and Chapter 5 of the Comprehensive Plan.

Goal 14, Urbanization

Goal 14 specifically prohibits urban uses on rural lands, unless an Exception to Goal 14 is taken. **If the use is determined to be "urban", a Goal 14 exception is also needed.** The applicant will need to provide findings to address why the proposed Plan amendments and zone change would not require a Goal 14 Exception. When making a determination that a Goal 14 exception is not required, case law makes it clear that findings need to be included in a local government's action to explain why the proposed use on rural exception lands is "rural" and not "urban".

What is "urban" and what is "rural" is not explicitly clear in the context of Goal 14 since the Statewide Planning Goals contain no definition of urban or rural uses. Additionally, while it is clear that OAR 660-004-040 applies to urban development on rural land, "urban development" is not defined in the OARs.

In general, relevant case law suggests that three main areas of consideration must be addressed to make a determination that a use is rural:

- That public facilities and services providing for water and sewage disposal will be limited to the types and levels of service available and appropriate for rural lands. Or in other words, that the proposed uses on rural lands will not require urban levels of service.
- The potential impact on a nearby Urban Growth Boundary. Specifically, consideration of whether the use(s) expected under the proposed zoning would impermissibly affect the ability of nearby UGBs to perform their urbanization function.
- Whether the size and intensity of the proposed use that will accompany the zone change can be considered a rural use.

B. Applicable Zoning and Development Ordinance (ZDO) and Comprehensive Plan (Comp Plan) standards

ZDO Section 1202 (Zone Changes)

Zone changes are subject to the approval criteria in Section 1202.03 of the county's ZDO, which requires the zone change to be:

- (A) consistent with the Comprehensive Plan,**
- (B) have adequate services provided,**
- (C) have no significant impact on the adequacy of the transportation system (links to state transportation planning rule), and**
- (D) have no significant impact safety of the transportation system.**

(A) Comprehensive Plan. Please note that both the Comprehensive Plan amendment and ZDO Section 1202.03(A) require review of Comp Plan and findings to address any applicable policies within the entire Plan. ***Some of the most relevant Chapters and policies are noted below, but the applicant should review the Comprehensive Plan to identify all policies applicable to the subject site and proposal.***

Chapter 3, Natural Resources and Energy

Wetlands: The subject property contains jurisdictional wetlands, per the State Wetland Inventory (SWI). As such, *Policy 3.F* and any other relevant policies will need to be addressed.

Habitat Conservation Area: A portion of the subject site is within a Habitat Conservation Area overlay District (HCAD). Please address applicable policies related to the HCAD found in Chapter 3.

Chapter 4, Land Use

Rural Commercial designation: Address consistency with all applicable Rural Commercial policies, including:

4.KK.3 Areas may be designated Rural Commercial when either the first or both of the other criteria are met:

4.KK.3.1 Areas shall have an historical commitment to commercial uses; or

4.KK.3.2 Areas shall be located within an Unincorporated Community; and

4.KK.3.3 The site shall have direct access to a road of at least a collector classification.

Unincorporated Community policies: The subject property is located within the Unincorporated Community of Boring. Relevant policies under 4.11 must be addressed.

Chapter 5, Transportation

To address this chapter and sections 1202.03(C) and (D) of the ZDO applicants are required to provide a traffic study. Please coordinate with Christian Snuffin and ODOT staff (contacts provided below) and see attached notes regarding scope of required traffic study for this site.

(B) Services – water and surface water management). This criteria largely relates to public services (water, sewer). The site is within the Boring Water District, but does not appear to be within Boring's sewer district. If that is correct and sewer is not available at the subject site, this criteria will be applicable as it relates only to water service and storm water drainage/surface water management. Please submit a signed [Preliminary Statements of Feasibility](#) from each applicable service provider (contacts provided below).

(C) Adequacy of transportation system

- Applicable OARs for the Transportation Planning Rule
- Policies in Chapter 5 of the Comprehensive Plan
- Specifics in 1202.03(C)

Please consult with **Christian Snuffin and ODOT staff (contacts provided below)** and see attached notes regarding scope of required traffic study.

(D) Safety of transportation system

- Consult with **County Engineering and ODOT staff** (roadway standards, safety standards etc.)
- Policies in Chapter 5 of the Comprehensive Plan

Other Zoning (ZDO) Considerations

- [Rural Commercial \(ZDO Section 513\)](#) -
 - Note potential size limits and usage limits within the R District
 - All development requires Design Review and compliance with ZDO Section 1000s
- Partition – Any future partition of the property would require a new preapplication conference and subsequent partition application. Given the size of the subject property (approx. 3.8 acres) the property, under the RA-1 zoning designation, it may qualify for up to three lots.

II. LAND USE PERMITTING PROCESS

- a. A land use application for a Comprehensive Plan map amendment and zone change is a: Type III application. The process for this type of application, as provided for in Section 1307 of the ZDO, includes notice to owners of nearby properties, the Community Planning

Organization (CPO) if active, service providers (sewer, water, fire, etc.), and affected government agencies affected government agencies, and **are reviewed at least two public hearings: one before the County's Planning Commission and another before the Board of County Commissioners (BCC).**

Prior to the public hearings, staff will review the application and prepare a report and recommendation to the County's Planning Commission. The Planning Commission will then hold a public hearing to consider the recommendation, the testimony of the applicant, and the testimony of any interested party before making a recommendation to the BCC. Staff will present the Planning Commission's recommendation to the BCC at their public hearing, after which the BCC may rule on the application.

Comprehensive Plan Map amendments are *not* subject to the "120-day/150-day rule" for decisions on certain other land use applications, but the County will make every effort to process the application as quickly as possible and as reviewing bodies' schedules for public hearings allow.

If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The County's decision can be appealed to the Oregon Land Use Board of Appeals (LUBA).

b. Land use application fee:

Comprehensive Plan map amendment and zone change: \$14,920

Additional notice surcharge: \$150

Total: \$15,070

III. QUESTIONS RAISED BY THE APPLICANT

The applicant has also asked that Staff address the following questions:

1. At the preapplication conference, the applicant asked staff to verify that the two dwellings on his property are both considered legal.

Based on information included in prior land use approvals (Z0414-17-HMV) and our property history files, it has been determined that there are two legal, nonconforming dwellings on this property (a manufactured home placed with a permit in 1986 and a 1930 single family residence). If either of these dwellings has been removed or is in such disrepair that it cannot be used as a dwelling for more than 12 months, the nonconforming use will be lost and the property would no longer be eligible for two dwellings (unless partitioned).

IV. MINIMUM LAND USE APPLICATION SUBMITTAL REQUIREMENTS

The submittal requirements are provided in ZDO 1307.07(C) and 1202.

Note to applicant: Review the applicable criteria listed above while preparing your written narrative and other land use application items. Consult staff with any questions regarding applicability of the criteria identified above. It is the applicant's responsibility to clearly demonstrate how a proposal meets all applicable criteria. Please note also that as we look more in depth at an actual land use application submittal there may be other policies that arise that we need to find consistency with so, while this is not

an exhaustive list, it covers the main policy consistency findings that need to be made and other submittal requirements for a complete application.

V. AGENCY/DEPARTMENT CONTACT INFORMATION:

**This list is provided for the applicant to follow up with relevant service providers, agencies, and County staff as needed. This also includes the CPO.*

Name / Position / Phone Number / Email

1. County Planning: Martha Fritzie, (503) 742-4529, mfritzie@clackamas.us
2. County Engineering (traffic study): Christian Snuffin, (503) 742-4716, CSnuffin@co.clackamas.or.us
3. County Engineering (storm water/development review): Ken Kent, (503) 742-4673, Kenken@co.clackamas.or.us; Jonny Gish, (503) 742-4707, JGish@co.clackamas.or.us
4. Oregon Dept. of Transportation (ODOT): Marah Danielson, (503) 731-8258, Marah.B.DANIELSON@odot.oregon.gov; Anthony Rikli, Anthony.RIKLI@odot.oregon.gov; Abraham Tayar, Abraham. TAYAR@odot.oregon.gov
5. Dept. of Land Conservation and Development (DLCD): Kelly Reid, (971) 345-1987, Kelly.REID@dlcd.oregon.gov
6. Boring Water District: Chris Alexander, boringwater@att.net
7. **Community Planning Organization: Boring CPO**; Michael Fitz, (503) 502-5837, fitz@staroilco.net

Attachments

1. Boring Water email comments

Fritzie, Martha

From: Boring Water <boringwater@boringwater.com>
Sent: Thursday, July 13, 2023 1:32 PM
To: Fritzie, Martha
Subject: Re: ZPAC0061-23 (Comp Plan/zone change; 28712 SE Hwy 212)

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

Boring Water has no concerns. One comment, the commercial zoning, if approved, would need to be served through a new, separate water service. The current residential meters serve the homes already existing on the property and cannot serve additional dwellings, buildings, or premise.

Thank you,

Chris Alexander

District Manager
Boring Water District #24
PO Box 66 Boring, OR 97009
Tel(503)663-4594 Fax(503)489-5315
Boringwater@boringwater.com

From: Fritzie, Martha <MFritzie@clackamas.us>
Sent: Thursday, June 29, 2023 3:23 PM
To: Snuffin, Christian <CSnuffin@clackamas.us>; james christopher <columbiarivermariner@yahoo.com>; REID Kelly * DLCD <Kelly.REID@dlcd.oregon.gov>; boringwater@att.net <boringwater@att.net>
Cc: mertnix@comcast.net <mertnix@comcast.net>
Subject: ZPAC0061-23 (Comp Plan/zone change; 28712 SE Hwy 212)
When: Wednesday, July 19, 2023 9:00 AM-10:00 AM.
Where: <https://clackamascounty.zoom.us/j/89514301817?pwd=T3NldU9yYzZVd2ttaW4rY2N5azBnUT09>

Hello all,

This is a request for a pre-application conference for a potential Comprehensive Plan map amendment and zone change from Unincorporated Community Residential/ RA-1 (Rural Area Residential, 1-acre) to Rural Commercial/RC (Rural Commercial) for a portion of the site located at 28712 SE Highway 212 (24E06BS00705). The site contains a Habitat Conservation Area District (HCAD) overlay and contains some mapped wetland areas. The site is also located within a Portland Metro area urban reserve and will therefore be subject to the provisions in OAR 660-027-0070.

The applicant has not asked that we address an specific questions but will provide a more detailed site plan prior to the meeting.

This meeting will be held via Zoom video conference. The pertinent Zoom access information is included below and Page 46 of 72 pre-application request materials and project drawings are attached for your reference and review.

Please respond with your availability at your earliest convenience.

We ask that our partner divisions and agencies send along development notes by Thursday, July 13th so that they may be assembled into a packet and provided to the applicant.

Thank you,
Martha

Martha Fritzie is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://clackamascounty.zoom.us/j/89514301817?pwd=T3NldU9vYzZVd2ttaW4rY2N5azBnUT09>

Meeting ID: 895 1430 1817

Passcode: 326035

One tap mobile

+16694449171,,89514301817# US

+16699006833,,89514301817# US (San Jose)

Dial by your location

- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 408 638 0968 US (San Jose)
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 876 9923 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US

Meeting ID: 895 1430 1817

Find your local number: <https://clackamascounty.zoom.us/j/kuLVPN6G1>

Join by SIP

• 89514301817@zoomcrc.com

Join by H.323

- [162.255.37.11](tel:162.255.37.11) (US West)
- [162.255.36.11](tel:162.255.36.11) (US East)
- [115.114.131.7](tel:115.114.131.7) (India Mumbai)
- [115.114.115.7](tel:115.114.115.7) (India Hyderabad)
- [213.19.144.110](tel:213.19.144.110) (Amsterdam Netherlands) • [213.244.140.110](tel:213.244.140.110) (Germany) • [103.122.166.55](tel:103.122.166.55) (Australia Sydney) • [103.122.167.55](tel:103.122.167.55) (Australia Melbourne) • [149.137.40.110](tel:149.137.40.110) (Singapore) • [64.211.144.160](tel:64.211.144.160) (Brazil) • [149.137.68.253](tel:149.137.68.253) (Mexico)
- [69.174.57.160](tel:69.174.57.160) (Canada Toronto) • [65.39.152.160](tel:65.39.152.160) (Canada Vancouver) • [207.226.132.110](tel:207.226.132.110) (Japan Tokyo) • [149.137.24.110](tel:149.137.24.110) (Japan Osaka)

Meeting ID: 895 1430 1817

Passcode: 326035

Martha Fritzie, Principal Planner
Clackamas County DTD|Planning & Zoning Division
150 Beaver Creek Road|Oregon City, OR 97045 mfritzie@clackamas.us
(503) 742-4529

Working hours 7:30am to 6:00pm|Monday – Thursday

Please visit our webpage for updates on Planning services available online, service hours and other related issues.

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Planning and Zoning
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

PRELIMINARY STATEMENT OF FEASIBILITY

TO BE COMPLETED BY APPLICANT		
Applicant name: James Kenney	Applicant email: columbiarivermariner@yahoo.com	Applicant phone: 360.936.5905
Project engineer: Jerry Wyatt	Project engineer email: jwyatt@forensicbuilding.com	Project engineer phone: 503.989.9950
Site address: 28712 SE Hwy 212, Boring OR 97209		
Map and tax lot #: Township: <u>24</u> Range: <u>E06</u> Section: <u>BA</u> Tax Lot: <u>705</u> Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

TO BE COMPLETED BY SERVICE PROVIDER / SURFACE WATER MANAGEMENT AUTHORITY	
Name of service provider / surface water management authority: Boring Water District	Name and title of authorized representative: Chris Alexander District Manager
Representative email: Boringwater@boringwater.com	Representative phone: 5036634594
Check all that apply:	
<p>Water Service</p> <p><input checked="" type="checkbox"/> Water service, including fire flows, is available in levels appropriate for the development and adequate water system capacity is available in source, supply, treatment, transmission, storage, and distribution, or such levels and capacity can be made available through improvements completed by the developer or the system owner.</p> <p><input type="checkbox"/> Water service is adequate with the exception of fire flows. The applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or sprinkler system, is acceptable.</p> <p><input type="checkbox"/> Adequate water service cannot be provided.</p> <p>Sanitary Sewer Service</p> <p><input type="checkbox"/> Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.</p> <p><input type="checkbox"/> Adequate sanitary sewer service cannot be provided.</p> <p>Surface Water Management, Treatment, and Conveyance</p> <p><input type="checkbox"/> Adequate surface water management, treatment, and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.</p> <p><input type="checkbox"/> Adequate surface water management, treatment, and conveyance cannot be provided.</p>	
Is this statement issued subject to any conditions of approval?	
<input type="checkbox"/> YES, and those conditions are attached. <input checked="" type="checkbox"/> NO	
Signature of authorized representative: 	Date of signature: 3-6-24



Planning and Zoning
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

Instructions for
PRELIMINARY STATEMENTS OF FEASIBILITY

Instructions to Applicant:

The attached Preliminary Statement of Feasibility form is to be completed by the applicable sanitary sewer service provider, surface water management authority, and water service provider. Where there is no surface water management service district for the subject property, this form is to be provided to the Clackamas County Department of Transportation and Development, Transportation Engineering Division. Preliminary Statements of Feasibility are not required for onsite wastewater treatment facilities (e.g., septic tanks) or water service by private well.

Completed Preliminary Statement of Feasibility forms must be submitted with a land use application for design review, a partition, a subdivision, conditional use permit, or zone change.

It is the responsibility of the applicant for a land use application to provide a copy of this form to each service provider for the subject property. 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.

The forms must be dated no more than one year prior to submittal of a complete land use application.

Instructions to Reviewing Service Provider or Surface Water Management Authority:

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 the completed form. Completion of the 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 for the prospective development is filed.

Clackamas County Planning & Zoning 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.

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 drenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?
翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



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www.clackamas.us/planning

PRELIMINARY STATEMENT OF FEASIBILITY

TO BE COMPLETED BY APPLICANT
Applicant name: James Kenney
Applicant email: columbiarivermariner@yahoo.com
Applicant phone: 360.936.5905
Project engineer: Jerry Wyatt
Project engineer email: jwyatt@forensicbuilding.com
Project engineer phone: 503.989.9950
Site address: 28712 SE Hwy 212
Map and tax lot #: Township: 24 Range: E06 Section: BA Tax Lot: 705

TO BE COMPLETED BY SERVICE PROVIDER / SURFACE WATER MANAGEMENT AUTHORITY
Name of service provider / surface water management authority: Clackamas County DTD
Name and title of authorized representative: Jonny Gish
Representative email: jgish@clackamas.us
Representative phone: 503-804-8271
Check all that apply:
Water Service
Sanitary Sewer Service
Surface Water Management, Treatment, and Conveyance
Is this statement issued subject to any conditions of approval?
Signature of authorized representative: Date of signature:



Exhibit 11

8/17/23:

ODOT #13040

ODOT Response

Project Name: Kenney ZC on OR 212	Applicant: James Kenney
Jurisdiction: Clackamas County	Jurisdiction Case # ZPAC0061-23
Site Address: 28712 SE Hwy 212	State Highway: OR 212

The site of this proposed land use action is adjacent to OR 212. ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

PROPOSAL DESCRIPTION

The applicant is proposing to change the zoning on a portion of his property from RA-1(Rural Residential) to RC (Rural Commercial) for the purposes of placing a coffee stand or food cart on the property.

COMMENTS/FINDINGS

ODOT comments are separated into two sections for the zone change and future development. **If there are any questions related to ODOT, comments please contact the Development Review Planner identified below.**

ZONE CHANGE

For zone changes and comprehensive plan amendments, local governments must make a finding that the proposed amendment complies with the Transportation Planning Rule (TPR), OAR 660-012-0060. There must be substantial evidence in the record to either make a finding of “no significant effect” on the transportation system, or if there is a significant effect, require assurance that the land uses to be allowed are consistent with the identified function, capacity, and performance standard of the transportation facility.

In order to determine whether or not there will be a significant effect on the State transportation system, ODOT requests that Clackamas County require the applicant to prepare a traffic impact study (TIS) prepared by a transportation engineer registered in Oregon. The analysis should address the following:

1. A comparison between the land use with the highest trip generation rate allowed outright under the proposed zoning/comp plan designation and the land use with the highest trip generation rate allowed outright under the existing zoning/comprehensive plan designation (this is commonly referred to as the “reasonable worst case” traffic analysis). The analysis should utilize the current edition of Institute of Transportation Engineers (ITE) *Trip Generation* manual, unless otherwise directed. To determine the maximum amount of building square footage that could be put on the site the analyst should look at the number of parking spaces, building height, and required landscaping in the local development code.

Note: It is important that the applicant’s transportation engineer provide ODOT the opportunity to review and concur with the mix of land uses and square footage they propose to use for the “reasonable worst case” traffic analysis for both existing and proposed zoning prior to commencing the traffic analysis, particularly if the applicant chooses to perform their analysis using a trip generation rate determined by any means other than ITE *Trip Generation*.

2. Analysis may rely on existing and planned transportation improvements in which a funding mechanism is in place including but not limited to projects identified in:
 - State Transportation Improvement Program (STIP),
 - Local/County Capital Improvement Plans (CIP),
3. The analysis should apply the highway mobility standard (volume-to-capacity ratio) identified in the OHP over the planning horizon in the adopted local transportation system plan of the area or 15 years from the proposed date of amendment adoption, whichever is greater (OHP Action 1F2).
4. In situations where the highway facility is operating above the OHP mobility standard and transportation improvements are not anticipated within the planning horizon to bring performance to standard, the performance standard is to avoid further degradation. If the proposed zone change or comprehensive plan amendment increases the volume-to-capacity ratio further, it will significantly affect the facility (OHP Action 1F6).
5. The analysis should not include any existing or proposed approaches on the highway unless the proposed site is landlocked¹. If landlocked, the analysis should only use one approach to the highway.

Prior to commencing the TIS, the applicant should contact Avi Tayar, P.E. ODOT Development Review Engineering lead at Abraham.tayar@odot.oregon.gov obtain ODOT concurrence with the scope of the study.

FUTURE DEVELOPMENT

Access

ODOT understands the proposed future development includes construction of a mobile vending cart with one drive thru lane within the property portion to be changed to RC zoning. There are two accesses within this portion as well as significant brush along the portion's frontage.

During the pre-application meeting, ODOT noted that it will require closure of the western most access, approximately 35 feet east of the western tax lot line. The applicant agreed to the closure.

Based on a review of the site, the significant brush (trees, bushes, ground cover) poses a significant hazard for drivers' sight distance out of the proposed development. Considering this, ODOT will require a Sight Distance analysis, completed and stamped by a licensed professional engineer, to ensure that the required Distance can be achieved. If not, further mitigation may be necessary, including, but not limited to, removal of trees and other brush. This will be required to be maintained by the applicant if the application moves forward. An Application for State Highway Approach is required for this proposed development.

Frontage Improvements and Right of Way Donation to ODOT

ODOT recommends Clackamas County require the applicant to donate right of way to ODOT for half street improvements consistent with Figure 5-2b Typical Rural Arterial Cross Section Unincorporated Communities. As discussed with the county and the applicant, the donation will consist of the following:

- 7ft Center Turn Lane
- 12ft Travel Lane
- 8ft Buffered Bike Lane
- 6" Curb with 5ft Planter Strip
- 7ft Sidewalk

¹ A parcel is considered 'landlocked' if it has no other reasonable access other than to a state highway. Burden of proof is on the applicant to provide justification as to why access to a road other than a state highway is not reasonable.

- 1ft Back of Sidewalk Maintenance Buffer

Because the center lane doesn't exist today, we recommend the applicant be required to construct the 8ft buffered bike lane, no curb (keep existing drainage ditch), extra wide planter strip and a 7ft sidewalk in its ultimate location.

ODOT Permit Requirements

- State Highway Approach Road Permit
- ODOT Miscellaneous Permit

All alterations within the State highway right of way are subject to the ODOT Highway Design Manual (HDM) standards. Alterations along the State highway but outside of ODOT right-of-way may also be subject to ODOT review pending its potential impact to safe operation of the highway. If proposed alterations deviate from ODOT standards a Design Exception Request must be prepared by a licensed engineer for review by ODOT Technical Services. Preparation of a Design Exception request does not guarantee its ultimate approval. Until more detailed plans have been reviewed, ODOT cannot make a determination whether design elements will require a Design Exception.

Note: Design Exception Requests may take **4 months or longer** to process.

All ODOT permits and approvals must reach 100% plans before the District Contact will sign-off on a local jurisdiction building permit, or other necessary requirement prior to construction.

ODOT RECOMMENDED LOCAL CONDITIONS OF APPROVAL

Frontage Improvements and Right of Way

- The applicant is required to construct an 8ft buffered bike lane, no curb (keep existing drainage ditch), extra wide planter strip (to accommodate the planned cross section) and a 7ft sidewalk in its ultimate location. Improvements shall be constructed as necessary to be consistent with local, ODOT and ADA standards.
- Right of way donated to ODOT as necessary to accommodate the planned cross section shall be provided.
 - 7ft Center Turn Lane
 - 12ft Travel Lane
 - 8ft Buffered Bike Lane
 - 6" Curb with 5ft Planter Strip
 - 7ft Sidewalk
 - 1ft Back of Sidewalk Maintenance Buffer

The deed must be to the State of Oregon, Oregon Department of Transportation. The ODOT District contact will assist in coordinating the transfer. ODOT should provide verification to the local jurisdiction that this requirement has been fulfilled. The property owner must be the signatory for the deed and will be responsible for a certified environmental assessment of the site prior to transfer of property to the Department.

Note: It may take up to **6 months or longer** to transfer ownership of property to ODOT.

Access to the State Highway

- A State Highway Approach Road Permit from ODOT for access to the state highway for the proposed use is required. Truck turning templates shall be provided as needed to ensure vehicles can enter and exit the approach safely. Site access to the state highway is regulated by OAR 734.51. For application information go to <http://www.oregon.gov/ODOT/HWY/ACCESSMGT/Pages/Application-Forms.aspx>.

Note: It may take up to **6 months to 1 year or longer** to process a State Highway Approach Road Permit depending on the level of complexity of the project and plan review timeline.

Permits and Agreements to Work in State Right of Way

- An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way. When the total value of improvements within the ODOT right of way is estimated to be \$100,000 or more, an agreement with ODOT is required to address the transfer of ownership of the improvement to ODOT. An Intergovernmental Agreement (IGA) is required for agreements involving local governments and a Cooperative Improvement Agreement (CIA) is required for private sector agreements. The agreement shall address the work standards that must be followed, maintenance responsibilities, and compliance with ORS 276.071, which includes State of Oregon prevailing wage requirements.

Note: If a CIA is required, it may take **6 months or longer** to process.

- The applicant must obtain an ODOT permit to place trees in the state right of way. Tree spacing and design must be consistent with the ODOT Highway Design Manual section 4.2.6
(http://www.oregon.gov/ODOT/Engineering/Documents_RoadwayEng/HDM_04-Cross-Sections.pdf).

If proposed tree placement deviate from ODOT standards (such as placement in a planter strip), a Design Exception Request for clear zone must be prepared by a licensed engineer for review by ODOT Technical Services. Preparation of a Design Exception request does not guarantee its ultimate approval.

Note: It may take **4 months or longer** to process a Design Exception.

- Illumination within the ODOT right of way must be in accordance with AASHTO illumination standards and the ODOT Lighting Policy and Guidelines, which states that local jurisdictions must enter into an Intergovernmental Agreement (IGA) with ODOT wherein the local jurisdiction is responsible for installation, maintenance, operation, and energy costs.

- An ODOT Utility Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way.

A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if:

1. Total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or
2. The improvements create an increase of the impervious surface area greater than 10,758 square feet.

Please send a copy of the Land Use Notice to: ODOT_R1_DevRev@odot.oregon.gov

Development Review Planner: Marah Danielson	503.731.8258, marah.b.danielson@odot.oregon.gov
District Contact: Robby Cox	d2cap@odot.oregon.gov

Exhibit 11



21370 SW Langer Farms Pkwy
Suite 142, Sherwood, OR 97140



RENEWS: 12/31/2023

Technical Memorandum

To: James Kenney
From: Michael Ard, PE
Date: December 4, 2023
Re: 28712 SE Highway 212 – Zone Change Analysis

This memorandum is written to provide information regarding a proposed change in zoning for the property at 28712 SE Highway 212 in Boring, Oregon. The subject property is currently zoned “RA-1”. Under the proposed plan, one acre of the property would be re-zoned to “RC” zoning.

This analysis considers the potential transportation impacts of the proposed change in zoning. The assessment is made based on the projected change in traffic volumes associated with development under the “reasonable worst case scenario” for the existing and proposed zoning designations. The analysis also includes a discussion of the desired site use as well as thresholds at which transportation improvements may reasonably be required.

Site Trips – Zone Change Analysis

A trip analysis for the zone change must consider the “reasonable worst case development scenario” for the existing and proposed zoning designations. This approach allows county to assess the potential impacts of a zone change and to determine whether safety or operational improvements would be needed to support increased traffic levels, as required under Oregon’s Transportation Planning Rule.

Under existing conditions, the Clackamas County “Rural Area Residential 1-Acre” (RA-1) zoning allows for residential development of the site with a minimum lot size of one acre. Since the property subject to the proposed rezone has an area of 1 acre, one single-family home could be constructed within the property without the need for a zone change. This development level serves as a baseline for comparison with the proposed zoning.

A trip generation estimate for the existing zoning was prepared using data from the *Trip Generation Manual, 11th Edition*, published by the Institute of Transportation Engineers. Trip generation was calculated using the published trip rates for ITE land use code 210, *Single-Family Detached Housing*. The calculations are based on the number of dwelling units.

Based on the analysis, the “reasonable worst case development scenario” for the existing RA-1 zoning would result in one trip during the morning peak hour, one trip during the evening peak hour, and ten daily site trips. Detailed trip generation calculation worksheets are included in the attached technical appendix.



RC Zoning

“Rural Commercial” (RC) zoning allows for development of the site with a variety of commercial land uses. These include day care facilities, banks, office uses (including government offices and medical/dental offices), retail uses, service stations, and restaurants and bars. For each of the potential site uses, it was assumed that a future building would have a floor area of up to 25 percent of the gross area of the lot. This results in a gross floor area of up to 10,900 square feet. Among the permitted land uses, the use which would be expected to result in the highest primary trip generation would be several fast-food restaurants without drive through windows and with a total gross floor area of 10,900 square feet.

The trip generation estimate for this zoning scenario was also prepared using data for ITE land use code 933, *Fast-Food Restaurant without Drive Through* based on a gross floor area of 10,900 square feet.

Based on the analysis, the proposed zone change would result in a net increase of up to 268 trips during the morning peak hour, 205 trips during the evening peak hour, and 2,788 additional daily trips as compared to the maximum development potential under the existing zoning. A summary of the trip generation calculations is provided in Table 1 below.

Table 1 - Zone Change Trip Generation Summary

	Morning Peak Hour			Evening Peak Hour			Daily Total
	In	Out	Total	In	Out	Total	
Proposed RRFF-5 Zoning (22 homes)	273	198	471	181	181	362	4910
-Pass-By Trips (43%)	-101	-101	-202	-78	-78	-156	-2112
-Existing RA-1 Zoning (1 home)	0	-1	-1	-1	0	-1	-10
Net Increase in Site Trips	172	96	268	102	103	205	2788

Desired Development Scenario

The property owner is seeking a change in zoning to facilitate the addition of a coffee kiosk to the subject property. Since the actual future land use is known, in addition to examination of the reasonable worst case development scenario, a trip generation estimate was prepared for the likely use of the subject property. This analysis was conducted to determine the likely traffic impacts of the actual future property use and to assess whether that use would trigger the need for transportation system improvements.

The trip generation estimate for a coffee kiosk was prepared using data for ITE land use code 938, *Coffee/Donut Shop with Drive-Through Window and No Indoor Seating*. The trip rates are based on the number of drive-through windows.

Based on the analysis, the desired use on the subject property (assuming a single drive-through window) would result in 40 trips during the morning peak hour, 15 trips during the evening peak hour, and 180 daily



28712 SE Highway 212 – Zone Change Analysis
 December 4, 2023
 Page 3 of 5

site trips as compared to the maximum development potential under the existing zoning. A summary of the trip generation calculations is provided in Table 2 below.

Table 2 - Likely Development Trip Generation Summary

	Morning Peak Hour			Evening Peak Hour			Daily
	In	Out	Total	In	Out	Total	Total
Coffee Kiosk w/ Drive Thru Window	20	20	40	8	7	15	180

Transportation Planning Rule Considerations

Oregon’s Transportation Planning Rule (OAR 660-012-0060) requires that when a plan amendment (such as a zone change) is proposed for a property, a determination must be made as to whether the amendment would result in a “significant effect” on the transportation system, as measured at the appropriate long-range planning horizon.

It is anticipated that the proposed zone change may significantly impact the operation of the surrounding transportation system under the reasonable worst case development scenario. However, the impacts of the actual desired land use are very limited. It should be noted that Oregon Highway Plan policy 1F5 provides that:

“If an amendment subject to OAR 660-012-0060 increases the volume to capacity ratio further, or degrades the performance of a facility so that it does not meet an adopted mobility target at the planning horizon, it will significantly affect the facility unless it falls within the thresholds listed below for a small increase in traffic.” [emphasis is mine]

It further defines that:

The threshold for a small increase in traffic between the existing plan and the proposed amendment is defined in terms of the increase in total average daily trip volumes as follows:

- *Any proposed amendment that does not increase the average daily trips by more than 400.*

Based on the trip generation analysis, an unrestricted zone change to RC would result in an increase of up to 2,788 average daily trips, which is well above the threshold designated as a small increase in traffic. However, the actual proposed use of the property falls below the 400-trip threshold identified in the Oregon Highway Plan. While an unrestricted zone change would likely result in a significant effect on the transportation system requiring a detailed analysis and mitigation, application of a trip cap on the subject property would allow the desired development to proceed while ensuring that future development will not



28712 SE Highway 212 – Zone Change Analysis
December 4, 2023
Page 4 of 5

result in a significant effect on the surrounding transportation system. Accordingly, a trip cap of 400 average daily trips is proposed for the one-acre parcel zoned “RC”.

Site Access Safety

To determine whether there are any significant existing safety hazards in the site vicinity, crash data for the site frontage and an additional 500 feet in each direction was obtained from the Oregon Department of Transportation’s Crash Analysis and Reporting Unit. The data was for the most recent five-year period for which complete data is available, from January 2017 through December 2021. During this period there were three reported crashes within the subject road segment. All three were rear-end collisions between eastbound vehicles and occurred east of Burt Lane (which is east of the subject property). Since any stopped vehicle or object in the roadway which causes an eastbound vehicle to need to stop must be farther east from the point of collision, it is clear that nothing within the area of the property frontage could have contributed to any of the reported crashes.

Based on the historical crash data, there are no evident safety concerns within the site frontage under existing conditions.

In addition to examination of the historical data, consideration was given to the projected traffic volumes which would be associated with desired development within the subject property. The highest site traffic volumes are projected to occur during the morning peak hour and consist of 20 entering and 20 exiting vehicles.

If half the vehicles entering the site approach from each direction, there will be 10 westbound left-turning vehicles entering the site, and 10 eastbound right-turning vehicles entering the site.

ODOT determines whether dedicated turn lanes are needed to safely accommodate projected site traffic based on turn lane warrants, as detailed in the Analysis Procedures Manual. In general, a left-turn lane is not warranted when 10 or fewer vehicles make a left turn during the peak hours. Additionally, right-turn lanes are not warranted where hourly right-turn volumes are not in excess of 20 vehicles per hour. Based on the anticipated site use and projected traffic volumes, it is therefore expected that turn lane warrants will not be met for the site access serving the future coffee kiosk. Although the volume of westbound left-turning traffic is just below the threshold at which a turn lane should be considered, it is expected that the actual distribution of site trips may include more eastbound right-turning vehicles than left-turning vehicles, simply because entering and exiting the site is easier for eastbound vehicles, which need not wait for a gap in the opposing traffic stream to enter the site, and need not wait for a gap in both directions of travel to exit the site. It is therefore likely that slightly more than half of site trips will enter and exit in the eastbound direction, resulting in a decrease in the projected westbound left-turn volume and an increase in the projected eastbound right-turn volume. Even with such a shift in trip assignment, turn lane warrants would not be projected to be met for either turning movement.



28712 SE Highway 212 – Zone Change Analysis
December 4, 2023
Page 5 of 5

Based on the crash history, turn-lane warrant analysis, and the relatively low posted speed of 35 mph along the site frontage, it is expected that the site can safely accommodate the proposed use without the need for lane additions or other safety mitigations.

Conclusions

Based on the analysis, it is recommended that a trip cap of no more than 400 average daily trips be applied to the one-acre property proposed for “RC” Rural Commercial zoning. This mitigative measure is sufficient to ensure that the proposed zone change will not result in a significant effect under Oregon’s Transportation Planning Rule.

Further, based on the crash history and turn-lane warrant analysis it is anticipated that future development of the commercial property with a coffee kiosk will not result in the need for significant safety improvements at the site access location on Oregon Highway 212.

If you have any questions regarding this analysis or the associated recommendations, please feel free to contact me at (503)537-8511 or mike.ard@gmail.com.

Appendix

Trip Generation Calculation Worksheet



Land Use Description: Single-Family Detached Housing
ITE Land Use Code: 210
Independent Variable: Dwelling Units
Quantity: 1 Dwelling Units
Setting: General Urban/Suburban and Rural

Summary of ITE Trip Generation Data

AM Peak Hour of Adjacent Street Traffic

Trip Rate: 0.70 trips per dwelling unit
Directional Distribution: 26% Entering 74% Exiting

PM Peak Hour of Adjacent Street Traffic

Trip Rate: 0.94 trips per dwelling unit
Directional Distribution: 63% Entering 37% Exiting

Total Weekday Traffic

Trip Rate: 9.43 trips per dwelling unit
Directional Distribution: 50% Entering 50% Exiting

Site Trip Generation Calculations

1 Dwelling Units

	Entering	Exiting	Total
AM Peak Hour	0	1	1
PM Peak Hour	1	0	1
Weekday	5	5	10

Trip Generation Calculation Worksheet



Land Use Description: Fast-Food Restaurant w/o Drive Thru
ITE Land Use Code: 933
Independent Variable: Gross Floor Area
Quantity: 10.90 Thousand Square Feet

Summary of ITE Trip Generation Data

AM Peak Hour of Adjacent Street Traffic

Trip Rate: 43.18 trips per ksf
Directional Distribution: 58% Entering 42% Exiting

PM Peak Hour of Adjacent Street Traffic

Trip Rate: 33.21 trips per ksf
Directional Distribution: 50% Entering 50% Exiting

Total Weekday Traffic

Trip Rate: 450.49 trips per ksf
Directional Distribution: 50% Entering 50% Exiting

Site Trip Generation Calculations

10.90 ksf Fast Food Restaurant

	Entering	Exiting	Total
AM Peak Hour	273	198	471
PM Peak Hour	181	181	362
Weekday	2455	2455	4910

Data Source: *Trip Generation Manual, 11th Edition*, Institute of Transportation Engineers, 2021

Trip Generation Calculation Worksheet



Land Use Description: Coffee/Donut Shop with Drive-Thru
Window and No Indoor Seating
ITE Land Use Code: 938
Independent Variable: Gross Floor Area
Quantity: 1 Drive-Through Lanes
Setting: General Urban/Suburban

Summary of ITE Trip Generation Data

AM Peak Hour of Adjacent Street Traffic

Trip Rate: 39.81 trips per Drive-Through Lane
Directional Distribution: 50% Entering 50% Exiting

PM Peak Hour of Adjacent Street Traffic

Trip Rate: 15.08 trips per Drive-Through Lane
Directional Distribution: 50% Entering 50% Exiting

Total Weekday Traffic

Trip Rate: 179 trips per Drive-Through Lane
Directional Distribution: 50% Entering 50% Exiting

Site Trip Generation Calculations

1 Drive-Through Lanes

	Entering	Exiting	Total
AM Peak Hour	20	20	40
PM Peak Hour	8	7	15
Weekday	90	90	180

Boring Oregon & Dull Scotland
A Pair for the Ages
BORING COMMUNITY PLANNING ORGANIZATION
"A Forum for Communication and Discussion for a Vibrant Community"
Home of the "North American Bigfoot Center"
P. O. Box 363 Boring, Oregon 97009
Michael Fitz, Chair
DAYTIME TELEPHONE: 503-502-5837 EMAIL: fitz@StarOilCo.com
www.boringcpo.org

15 February 2024

James Kenney
28712 SE Highway 212
PO Box 44
Boring, Oregon 97009

Dear Mr. Kenney;

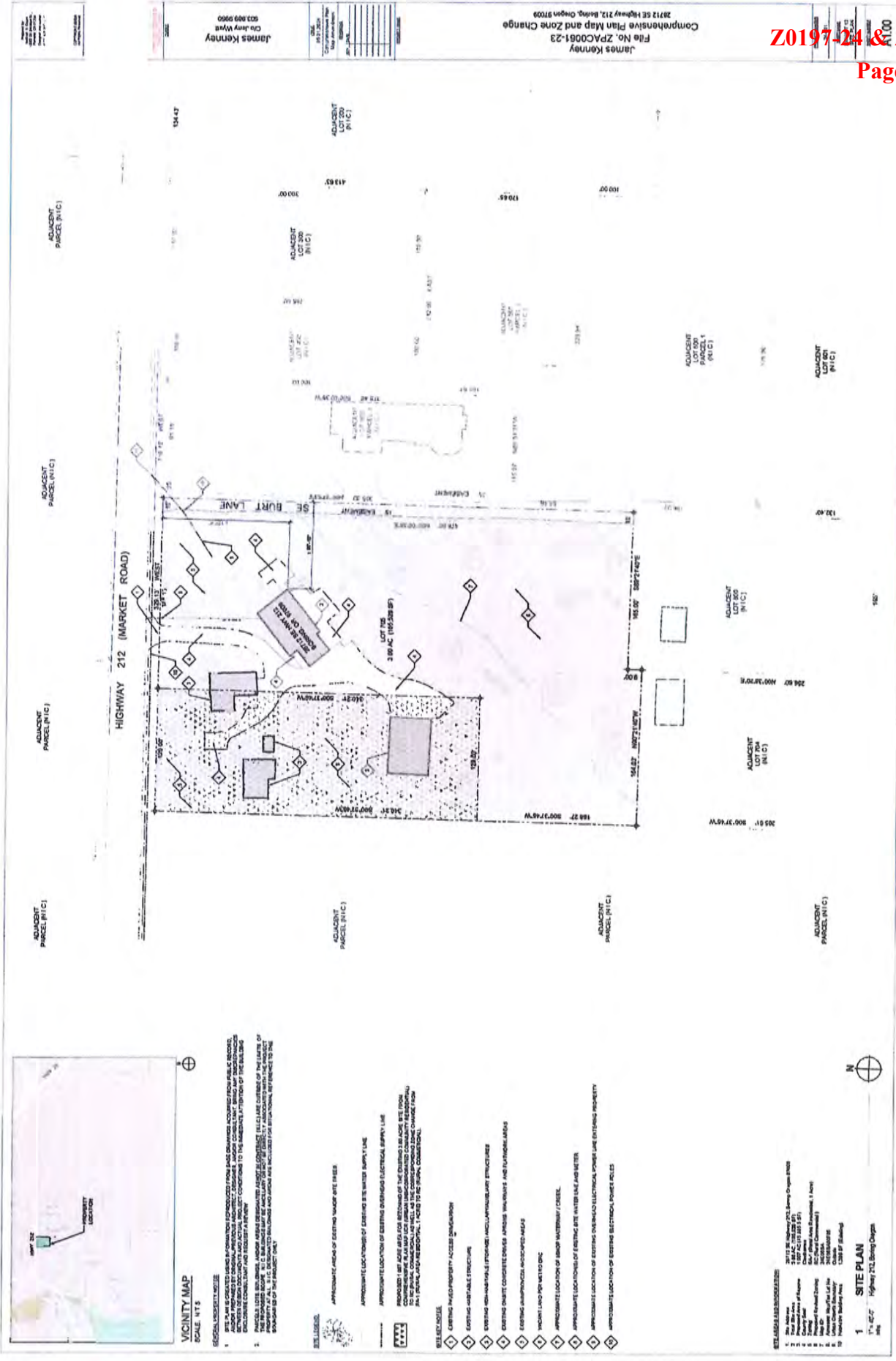
This letter is being written at your request. Over the last year you have kept the CPO informed of your intentions to get a zone change and a partition on your property located at 28712 SE Highway 212. The lot size is 3.8 acres and the zoning is Rural Residential 1. You are going to partion 1 acre and change the zoning on that one acre to Rural Commercial.

At the January CPO meeting you explained your plans and asked for the CPO to endorse the change. A motion was made and seconded, with about 25 voting residents present all votes were aye with no nay votes.

Sincerely yours;



Michael A. Fitz
Chairman



James Kenney
 File No. ZFAC0061-23
 Comprehensive Plan Map and Zone Change
 28712 SE Highway 212, Boring, Oregon 97009

James Kenney
 City of Boring
 503 509 9900

Parcel No.	Area (Ac.)	Owner
10000	1.00	James Kenney
10001	1.00	James Kenney
10002	1.00	James Kenney
10003	1.00	James Kenney
10004	1.00	James Kenney
10005	1.00	James Kenney
10006	1.00	James Kenney
10007	1.00	James Kenney
10008	1.00	James Kenney
10009	1.00	James Kenney
10010	1.00	James Kenney
10011	1.00	James Kenney
10012	1.00	James Kenney
10013	1.00	James Kenney
10014	1.00	James Kenney
10015	1.00	James Kenney
10016	1.00	James Kenney
10017	1.00	James Kenney
10018	1.00	James Kenney
10019	1.00	James Kenney
10020	1.00	James Kenney

- 1. APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE
- 2. APPROXIMATE LOCATION OF EXISTING UNDERGROUND ELECTRICAL SUPPLY LINE
- 3. APPROXIMATE LOCATION OF EXISTING WATER SUPPLY LINE
- 4. APPROXIMATE LOCATION OF EXISTING SEWER LINE
- 5. APPROXIMATE LOCATION OF EXISTING GAS LINE
- 6. APPROXIMATE LOCATION OF EXISTING TELEPHONE / CABLE
- 7. APPROXIMATE LOCATION OF EXISTING FIRE WATER TANK AND PUMP
- 8. APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL POWER LINE EXTERNS PROPERTY
- 9. APPROXIMATE LOCATION OF EXISTING ELECTRICAL POWER POLES

LEGEND

- EXISTING OVERHEAD ELECTRICAL SUPPLY LINE
- EXISTING UNDERGROUND ELECTRICAL SUPPLY LINE
- EXISTING WATER SUPPLY LINE
- EXISTING SEWER LINE
- EXISTING GAS LINE
- EXISTING TELEPHONE / CABLE
- EXISTING FIRE WATER TANK AND PUMP
- EXISTING OVERHEAD ELECTRICAL POWER LINE EXTERNS PROPERTY
- EXISTING ELECTRICAL POWER POLES

REVISIONS

No.	Description	Date
1	Initial Plan	08/15/23
2	Revised Plan	08/22/23
3	Revised Plan	09/05/23
4	Revised Plan	09/12/23
5	Revised Plan	09/19/23
6	Revised Plan	09/26/23
7	Revised Plan	10/03/23
8	Revised Plan	10/10/23
9	Revised Plan	10/17/23
10	Revised Plan	10/24/23
11	Revised Plan	10/31/23
12	Revised Plan	11/07/23
13	Revised Plan	11/14/23
14	Revised Plan	11/21/23
15	Revised Plan	11/28/23
16	Revised Plan	12/05/23
17	Revised Plan	12/12/23
18	Revised Plan	12/19/23
19	Revised Plan	12/26/23
20	Revised Plan	01/02/24

1 SITE PLAN
 Highway 212, Boring, Oregon

VICINITY MAP
 SCALE: N.T.S.

GENERAL NOTES

1. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF ANY KIND. THE USER OF THIS INFORMATION SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
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LEGEND

- EXISTING OVERHEAD ELECTRICAL SUPPLY LINE
- EXISTING UNDERGROUND ELECTRICAL SUPPLY LINE
- EXISTING WATER SUPPLY LINE
- EXISTING SEWER LINE
- EXISTING GAS LINE
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1	Initial Plan	08/15/23
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6	Revised Plan	09/26/23
7	Revised Plan	10/03/23
8	Revised Plan	10/10/23
9	Revised Plan	10/17/23
10	Revised Plan	10/24/23
11	Revised Plan	10/31/23
12	Revised Plan	11/07/23
13	Revised Plan	11/14/23
14	Revised Plan	11/21/23
15	Revised Plan	11/28/23
16	Revised Plan	12/05/23
17	Revised Plan	12/12/23
18	Revised Plan	12/19/23
19	Revised Plan	12/26/23
20	Revised Plan	01/02/24

1 SITE PLAN
 Highway 212, Boring, Oregon

agriculture, forestry, and low-density residential development. That public facilities and services provided for water and sewage disposal will be limited to the types and levels of service available and appropriate to the property. The proposed comprehensive map and zone change and use of the property would not impermissibly affect the ability of nearby UGBs to perform their urbanization function. The subject property is located off of an Arterial Street and adjacent to Commercially zoned property. The change will not change the density.

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.

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

Applicants Response: The applicant agrees that ensuring the safety of the transportation systems is paramount when considering proposed zone changes and with any anticipated increased with development. This was a critical aspect and in consideration of various factors, including road capacity, traffic flow, pedestrian safety, and infrastructure adequacy were considered. The comprehensive traffic impact analysis gave the applicant certainty to move forward in the request for the designation change. The traffic analysis considered the projected change in traffic volumes associated with the development for the existing and proposed change. This is further supported by a traffic report prepared by ARD engineering. With any development application the applicant will further assess the adequacy of existing transportation infrastructure to accommodate the anticipated level of development resulting from development. This will includes evaluating road capacity, signage, lighting, pedestrian crossings, and bicycle lanes. With any development identifying any deficiencies in infrastructure is crucial for addressing safety concerns and ensuring that the transportation system can effectively serve the increased demand. By conducting thorough analyses, addressing infrastructure needs, prioritizing pedestrian and cyclist safety, coordinating with transportation



Exhibit 1

Subject Property



Boring

SE BURT LN

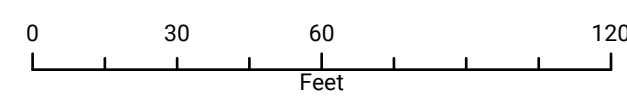
24E06BA00705

2022 1-foot Photos

1:478

-  Subject Parcels
-  Tax Lot(s)

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Subject Property

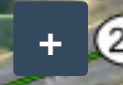


Exhibit 2

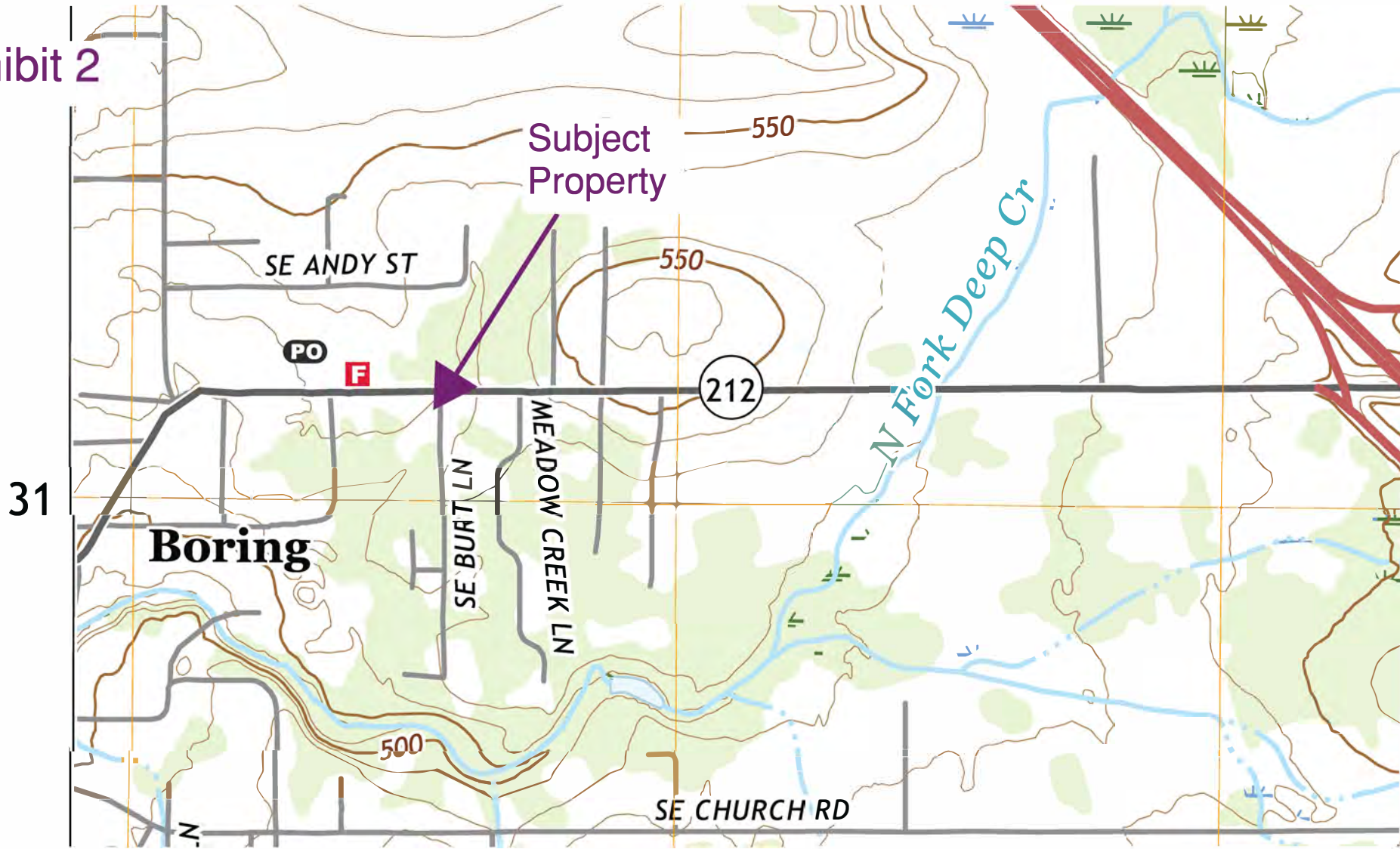
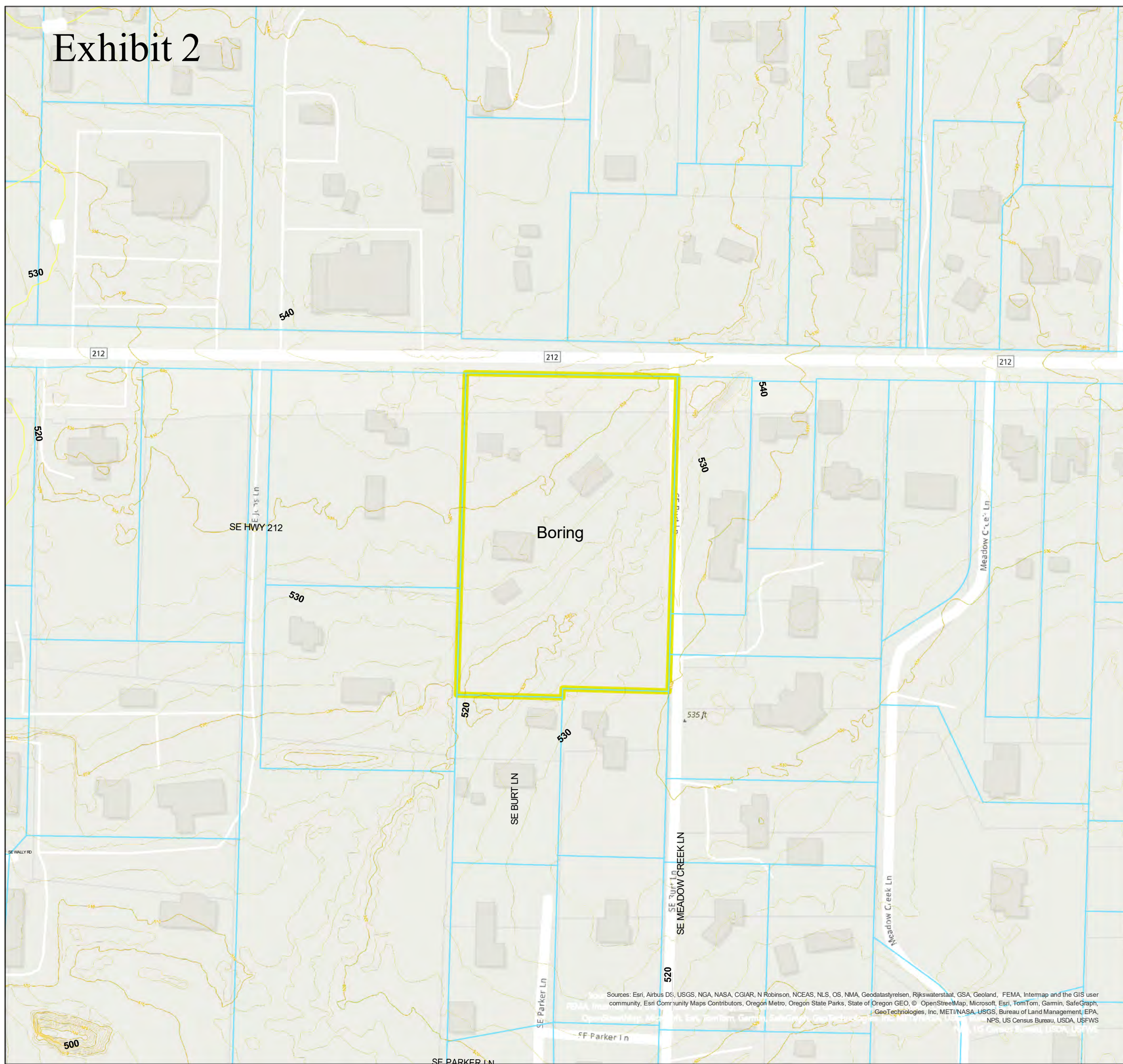


Exhibit 2



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatasystrelen, Rikswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS User community, Esri Community Maps Contributors, Oregon Metro, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS

24E06BA00705

2022 1-foot Photos

1:1,427

- Subject Parcel(s)
- Tax Lot(s)
- 30 Ft Elevation Contours
- 10 Ft Elevation Contours
- Index Contour
- Contour Line

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VICINITY MAP
SCALE: N.T.S.

- GENERAL PROPERTY NOTES:**
- SITE PLAN IS CREATED USING INFORMATION REPRODUCED FROM BASE DRAWINGS ACQUIRED FROM PUBLIC RECORD, AND/OR PREPARED BY ORIGINAL/PREVIOUS ARCHITECT, DESIGNER, AND/OR CONSULTANT. BRING ANY DISCREPANCIES BETWEEN DESIGN DOCUMENTS AND ACTUAL PROJECT CONDITIONS TO THE IMMEDIATE ATTENTION OF THE BUILDING ENCLOSURE CONSULTANT AND REQUEST A REVIEW.
 - PARCELS, LOTS, BUILDINGS, AND/OR AREAS DESIGNATED AS NOT IN CONTRACT (N.I.C.) ARE OUTSIDE OF THE LIMITS OF THE PROPOSED SCOPE. N.I.C. BUILDINGS MAY BE ANCILLARY OR NOT BE DIRECTLY ASSOCIATED WITH THE PROJECT PROPERTY AT ALL. N.I.C. DESIGNATED BUILDINGS AND AREAS ARE INCLUDED FOR SITUATIONAL REFERENCE TO THE BOUNDARIES OF THE PROJECT ONLY.

- SITE LEGEND:**
- APPROXIMATE AREAS OF EXISTING 'MAJOR' SITE TREES.
 - APPROXIMATE LOCATION(S) OF EXISTING SITE WATER SUPPLY LINE.
 - APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.
 - PROPOSED 1.007 ACRE AREA FOR REZONING OF THE EXISTING 3.80 ACRE SITE FROM COMPREHENSIVE PLAN MAP UCR (URBAN UNINCORPORATED COMMUNITY RESIDENTIAL) TO RC (RURAL COMMERCIAL) AS WELL AS THE CORRESPONDING ZONE CHANGE FROM RA-1 (RURAL AREA RESIDENTIAL, 1 ACRE) TO RC (RURAL COMMERCIAL).

- SITE KEY NOTES:**
- EXISTING PAVED PROPERTY ACCESS DRIVE/APRON.
 - EXISTING HABITABLE STRUCTURE.
 - EXISTING NON-HABITABLE (STORAGE) ANCILLARY/AUXILIARY STRUCTURES.
 - EXISTING ONSITE CONCRETE DRIVES, APRONS, WALKWAYS, AND FLATWORK AREAS.
 - EXISTING UNIMPROVED/LANDSCAPED AREAS.
 - VACANT LAND PER METRO DRC.
 - APPROXIMATE LOCATION OF MINOR WATERWAY / CREEK.
 - APPROXIMATE LOCATION(S) OF EXISTING SITE WATER LINE AND METER.
 - APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL POWER LINE ENTERING PROPERTY.
 - APPROXIMATE LOCATION OF EXISTING ELECTRICAL POWER POLES.

SITE AREAS AND INFORMATION:

1. Site Address:	28712 SE Highway 212, Boring Oregon 97009
2. Total Site Area:	3.80 AC, (165,528 SF)
3. Proposed Area of Rezone:	1.007 AC (43,885.5 SF)
4. County Seat:	Clackamas
5. Zoning:	RA-1 (Rural Area Residential, 1 Acre)
6. Proposed Revised Zoning:	RC (Rural Commercial)
7. Map ID:	24E068A
8. Assessor Map/Tax Lot No.:	24E068A00705
9. Urban Growth Boundary:	Outside
10. Habitable Building Area:	1,396 SF (Existing)



1 SITE PLAN
1" = 40'-0"
mhg

ISSUE
05.01.2024
Comprehensive Plan Map Amendment

REVISIONS

REV.	DATE	DESCRIPTION

PROJECT NAME

James Kenney
File No. ZPAC0061-23
Comprehensive Plan Map and Zone Change
28712 SE Highway 212, Boring, Oregon 97009

PROJECT NUMBER
24-001

SHEET NAME
EXHIBIT 13
SITE PLAN

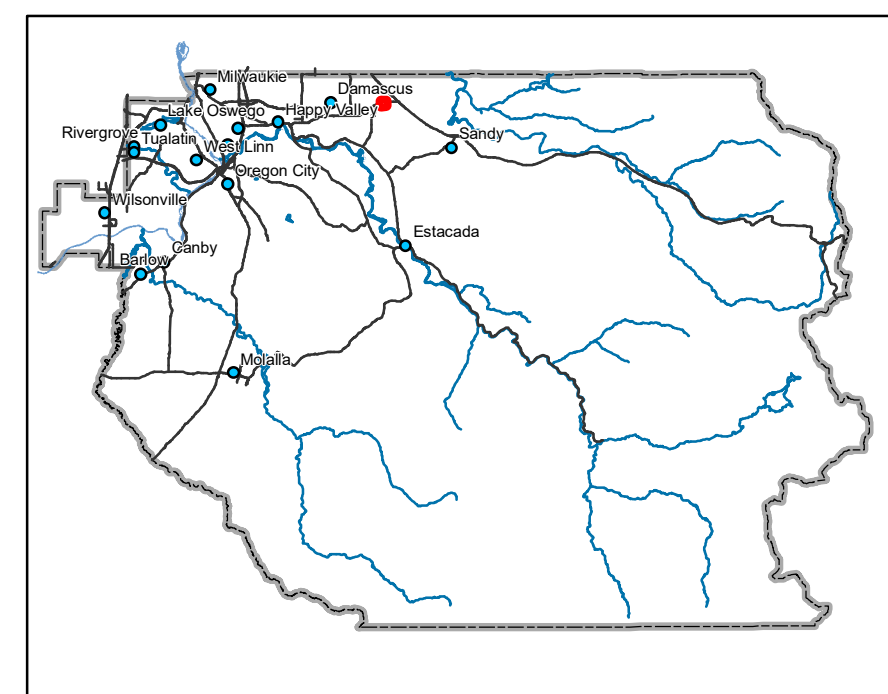
SHEET NUMBER
A1.00

N.E. 1/4 N.W. 1/4 SEC. 6 T.2S. R.4E. W.M.
CLACKAMAS COUNTY
1" = 100'

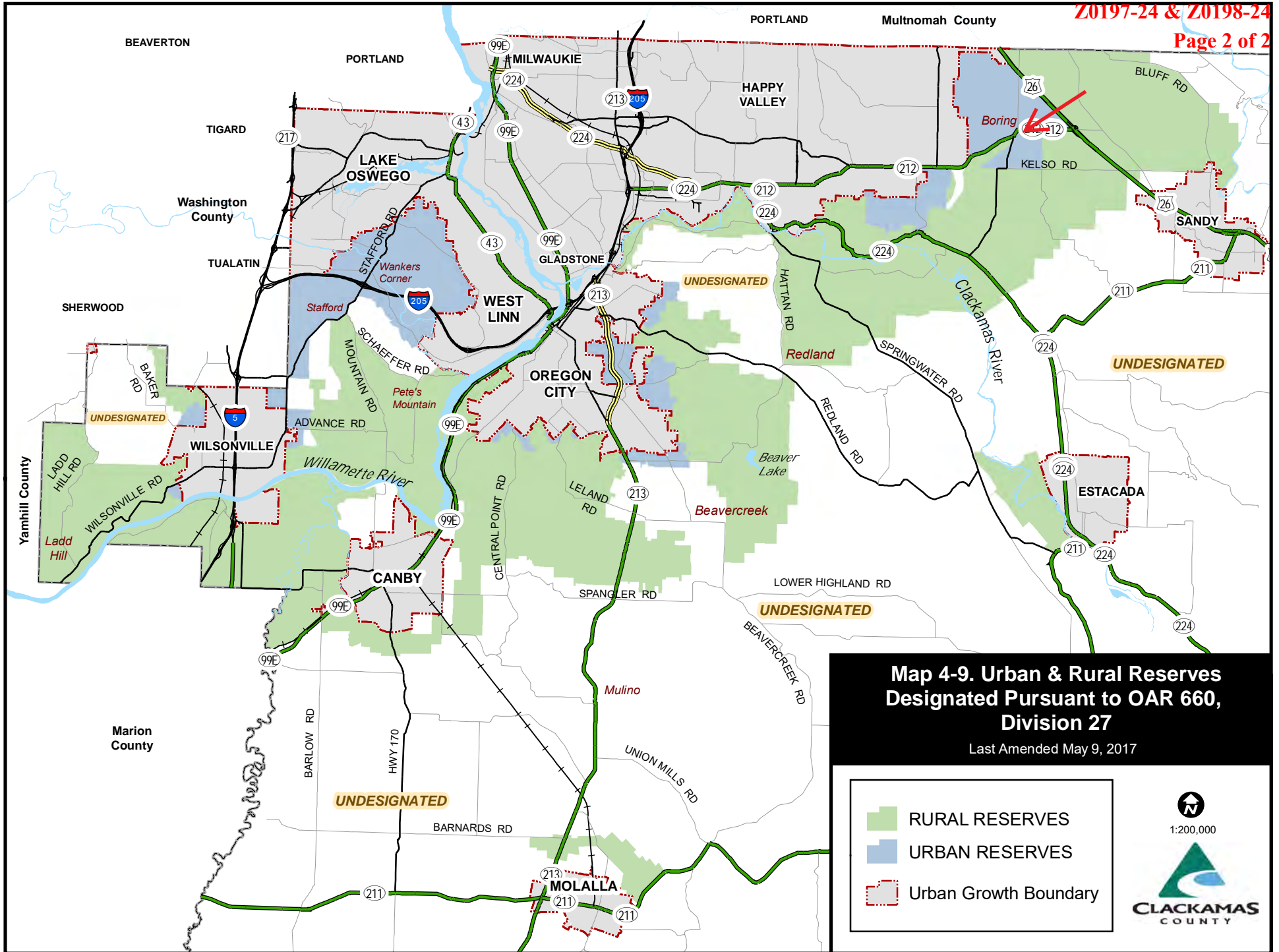
Cancelled Taxlots
700



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- + + + Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- ▨ Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- ⊗ Historic Corridor 40'
- ⊗ Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



Map 4-9. Urban & Rural Reserves Designated Pursuant to OAR 660, Division 27

Last Amended May 9, 2017

- RURAL RESERVES
- URBAN RESERVES
- Urban Growth Boundary

N
 1:200,000

CLACKAMAS COUNTY

Fritzie, Martha

From: Liljefelt, Valere <Valere.Liljefelt@clackamasfire.com>
Sent: Tuesday, July 23, 2024 11:17 AM
To: Fritzie, Martha
Subject: Z0197-24 and Z0198-24

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

CFD1 has no comments for a zone change.

Valere Liljefelt

Lt. Deputy Fire Marshal | Fire Prevention

Hours: [Mon – Thurs 7 am – 5 pm](#)

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8/15/24

ODOT # 13040

ODOT Response

Project Name: Kenney Zone Change	Applicant: James and Tammy Kenney
Jurisdiction: Clackamas County	Jurisdiction Case #: Z0197-24 and Z0198-24
Site Address: 28712 SE Hwy 212, Boring	State Highway: OR 212

LAND USE PROPOSAL

A Comprehensive Plan map amendment to change the land use plan designation for a portion of the subject property from Unincorporated Community Residential (UCR) to Rural Commercial (RC), with a corresponding zone change from Rural Area Residential 1 Acre (RA-1) to Rural Commercial (RC) to allow for future development of rural commercial uses. No development is proposed with the application.

STATE HIGHWAY FACILITY

The site is adjacent to OR 212. ODOT has permitting authority for this facility and an interest in assuring that the proposed zone change/comprehensive plan amendment is consistent with the identified function, capacity and performance standard of this facility.

COMMENTS

For zone changes and comprehensive plan amendments, local governments must make a finding that the proposed amendment complies with the Transportation Planning Rule (TPR), OAR 660-012-0060. There must be substantial evidence in the record to either make a finding of “no significant effect” on the transportation system, or if there is a significant effect, require assurance that the land uses to be allowed are consistent with the identified function, capacity, and performance standard of the transportation facility.

ARD Engineering has prepared a Traffic Impact Analysis for the proposed plan amendment. ODOT has reviewed the analysis to determine whether there would be a significant effect on OR 212 with the proposed amendment. Due to existing constraints on the transportation system, the analysis recommends that vehicle trips generated from the site be limited to no more than 400 average daily trips. This number of trips is consistent with the Oregon Highway Plan mobility policy that states that plan amendments that generate 400 average daily trips or less are considered a small increase and would not have a significant effect on State highway facility. ODOT supports a condition of approval for trip cap of 400 average daily trips provided Clackamas County has a mechanism to administer it.

Thank you for providing ODOT the opportunity to participate in this land use review. If you have any questions regarding this matter, please contact the ODOT Region 1 Development Review Planner identified below.

Please send a copy of the Notice of Decision including conditions of approval to:

ODOT_R1_DevRev@odot.oregon.gov

Development Review Planner: Marah Danielson	Marah.b.danielson@odot.oregon.gov
Traffic Contact: Avi Tayar, P.E.	Abraham.tayar@odot.oregon.gov

Fritzie, Martha

From: Snuffin, Christian
Sent: Thursday, August 15, 2024 3:11 PM
To: Fritzie, Martha
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

I have reviewed the technical memorandum prepared by Michael Ard, PE, and dated December 4, 2023, regarding the proposed zone change at 28712 SE Highway 212 from RA-1 to RC.

I concur with the findings that the Transportation Planning Rule (TPR) can be met with the implementation of a trip cap that limits the allowable daily site trips to no more than 400. This would allow the desired development scenario, which is a drive-through coffee kiosk with no seating; but would preclude otherwise permitted uses in the Rural Commercial zone, such as a fast-food restaurant with a drive through.

The technical memo adequately addressed ZDO 1202.03, subsection (C) (transportation system adequacy) by demonstrating that a trip cap of 400 daily site trips would result in no significant effect under the TPR.

The memo also adequately addressed ZDO 1202.03, subsection (D) - safety adequacy. The crash history did not reveal elevated crash frequency or severity in the vicinity of the site and no safety mitigations are recommended.

Christian Snuffin, PE, PTOE
503.680.5623

From: Fritzie, Martha <MFritzie@clackamas.us>
Sent: Thursday, August 15, 2024 1:49 PM
To: Snuffin, Christian <CSnuffin@clackamas.us>
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

Hi Christian. No worries about yesterday. Someone from Kittleson was there and said she had worked with you in the past and will reach out.

Regarding Z0197-24, etc – could you write up a couple of sentences for my findings – that you agree with the findings of the TI and the trip cap is necessary to meet the TPR (assuming this from your comments) and also that the safety criteria in ZDO Section 1202 was adequately addressed and is met.

Thanks!
Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

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From: Snuffin, Christian <CSnuffin@clackamas.us>
Sent: Thursday, August 15, 2024 11:39 AM
To: Fritzie, Martha <MFritzie@clackamas.us>
Cc: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

Hi Martha and Marah,

My apologies for not responding sooner. I was unexpectedly out of the office yesterday dealing with some personal business. No red flags on the TIS. I would not object to a trip cap if legal and enforceable.

Martha, I'm sorry to have missed the pre-app yesterday. Let me know if there are any outstanding questions I can help address or anyone you need me to talk to.

Christian Snuffin, PE, PTOE
503.680.5623

From: Fritzie, Martha <MFritzie@clackamas.us>
Sent: Wednesday, August 14, 2024 10:08 AM
To: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>; Snuffin, Christian <CSnuffin@clackamas.us>
Cc: TAYAR Abraham <Abraham.TAYAR@odot.oregon.gov>
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

Thanks for reaching out, Marah. I would like comments before the end of the day Thursday (tomorrow). I will be finishing up the staff report Friday – to send out on Monday.

Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

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From: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Sent: Wednesday, August 14, 2024 9:24 AM
To: Snuffin, Christian <CSnuffin@clackamas.us>; Fritzie, Martha <MFritzie@clackamas.us>
Cc: TAYAR Abraham <Abraham.TAYAR@odot.oregon.gov>
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

Warning: External email. Be cautious opening attachments and links.

Hi Christian and Martha,
When do you need ODOT comments by this week regarding the Kenney ZC? We were hoping to hear back from Christian regarding our questions below about the proposed trip cap before sending comments this week.

Thanks,

Marah Danielson, Senior Planner
Development Review Program
Oregon Department of Transportation, Region 1
Marah.b.danielson@odot.oregon.gov
503.731.8258
Cell: 503.979.7628

Please note: This email, related attachments and any response may be subject to public disclosure under state law.

From: DANIELSON Marah B
Sent: Tuesday, August 13, 2024 9:18 AM
To: Snuffin, Christian <CSnuffin@clackamas.us>
Cc: TAYAR Abraham <Abraham.TAYAR@odot.oregon.gov>
Subject: FW: Z0197-24 and Z0198-24 Kenney ZC

Hi Christian,
Hope you're doing well. Avi has reviewed the TIA for the Kenney ZC. It looks like the applicant is proposing a trip cap to meet the TPR. Does the county support the trip cap and have the resources to administer it? We wanted to confirm before submitting our comments to Martha.

Thanks,

Marah Danielson, Senior Planner
Development Review Program
Oregon Department of Transportation, Region 1
Marah.b.danielson@odot.oregon.gov

503.731.8258
Cell: 503.979.7628

Please note: This email, related attachments and any response may be subject to public disclosure under state law.

Exhibit 5
Z0197-24 & Z0198-24
Page 4 of 5

From: Fritzie, Martha <MFritzie@clackamas.us>
Sent: Monday, August 12, 2024 6:28 PM
To: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Cc: Blessing, Ben <BBlessing@clackamas.us>; Kent, Ken <KenKen@clackamas.us>; TAYAR Abraham <Abraham.TAYAR@odot.oregon.gov>
Subject: RE: Z0197-24 and Z0198-24 Kenney ZC

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

Thanks Marah. You should contact Christian Snuffin (CSnuffin@clackamas.us) regarding the traffic study.
Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

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From: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Sent: Monday, August 12, 2024 4:49 PM
To: Fritzie, Martha <MFritzie@clackamas.us>
Cc: Blessing, Ben <BBlessing@clackamas.us>; Kent, Ken <KenKen@clackamas.us>; TAYAR Abraham <Abraham.TAYAR@odot.oregon.gov>
Subject: Z0197-24 and Z0198-24 Kenney ZC

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

Exhibit 5
7019724 & 7019824
Page 5 of 5

ODOT engineering has reviewed the TIA for the zone change and the applicant is proposing a trip cap to address the TPR requirements. I requested county engineering comments but the generic email was unable to locate them. Before sending comments supporting the trip cap, we want to make sure the county was onboard with administering the cap and in support of the trip cap as a condition of approval.

Thanks,

Marah Danielson, Senior Planner

Development Review Program

Oregon Department of Transportation, Region 1

Marah.b.danielson@odot.oregon.gov

503.731.8258

Cell: 503.979.7628

Please note: This email, related attachments and any response may be subject to public disclosure under state law.

Fritzie, Martha

From: Snuffin, Christian
Sent: Wednesday, September 4, 2024 2:21 PM
To: Fritzie, Martha; DANIELSON Marah B
Subject: RE: Trip cap for Z0197-24 & Z0198-24

Hi Martha,

Overall, I don't think there is a solid basis for reducing the trip cap below the proposed 400 daily trips. As I will discuss, simply meeting the ODOT left turn volume criteria does not automatically mean that a left turn lane should be built. In this case, ODOT would almost certainly not allow a left turn lane for this development. My other concern is whether this could set a precedent that subjects subsequent developments on this section of OR 212 to a similar trip cap.

There are two primary considerations: First, what factors comprise the "need" for a left turn lane and under what circumstances might a left turn lane be considered appropriate or warranted? Second, what basis should be used to determine a potential trip cap, and would it be appropriate to reduce the trip cap below the 400 daily trips proposed by the applicant? I'll explore these questions below.

LEFT TURN LANE WARRANTS

Left-turn lane criteria are provided in Section 12.2.1 of the ODOT Analysis Procedures Manual (APM). Exhibit 12-1 shows the volume criteria referenced by the Ard Engineering traffic memo. Additional discussion of left turn lanes is provided in Section 506.10 of the ODOT Highway Design Manual (HDM).

The APM notes that, **"meeting the [left turn lane] criteria does not require a turn lane to be installed. Engineering judgment must be used to determine if an installation would be safe and practical."**

The HDM further cautions against installation of left turn lanes in certain circumstances, even if traffic volumes meet left turn lane criteria. The following paragraphs are excerpted from Section 506.10 of the HDM:

"Generally, left turn lanes are not to be constructed for private accesses in rural areas unless the siting criteria are met and installation of a left turn lane will not create additional safety concerns on the highway. A major concern regarding left turn lanes for private access is that successive accesses may require installation of a section of a continuous two way left turn lane (CTWLTL). Using CTWLTLs in rural environments should be discouraged. However, rural CTWLTLs may be considered where needed specifically for safety in short sections or within the boundaries of a rural community.

As stated above, providing left turn lanes at multiple locations that are spaced closely may create a need for a CTWLTL. It is undesirable to provide a typical section that creates an hourglass shape. This is where a highway is widened to provide a left turn lane, then narrowed back to the original typical section, only to be immediately widened again. This situation should be avoided. Left turn lanes in rural areas should be selected where adequate spacing exists to avoid this hourglass problem."

Highway 212, in the vicinity of the subject site, is a two-lane highway in a rural community with densely spaced private and public accesses and no left turn lanes. **Based on the APM and HDM, it appears unlikely that ODOT would require, or even allow, the installation of a left turn lane for this private development in isolation, even if it were expected to generate significantly higher left-turning volumes.** ODOT may elect, at some time in the future, to construct a CTWLTL on the highway as a capital improvement project. A CTWLTL would be compatible with the land uses and could benefit overall traffic operations and safety.

TRIP CAP

The traffic memo provides a rationale for establishing a 400-vehicle trip cap, which is based on the definition of "significant effect" provided in Policy 1F5 of the Oregon Highway Plan. This policy directs that a proposed amendment

would not have a significant effect if it does not increase daily trips by more than 400. Clackamas County has historically accepted OHP Policy 1F5 arguments when making determinations of significant effect.

RECOMMENDATIONS

The proposed coffee kiosk is expected to generate 180 daily trips. The traffic memo accurately stated that this level of trip generation would not warrant a left turn lane. More intensive trip generation of up to 400 daily trips could result in meeting the APM volume criterion for a left-turn lane. However, as previously established, a stand-alone left turn lane on OR 212 at the site access would not be appropriate nor allowed by ODOT, even if volume criteria for a left turn lane are met.

The applicant has demonstrated, based on metrics that the County has historically accepted, that a development on this parcel that generates **up to 400 daily vehicle trips would not result in a significant effect** per the TPR. This represents a reasonable basis to establish a trip cap to ensure adequacy per the TPR. The imposition of a 200-vehicle daily trip cap would not appear to be supported by any standard or policy. Such a trip cap could also set a precedent that impacts future zone changes.

I hope this helps! Please let me know if you have any questions or would like to discuss further.

Christian Snuffin, PE, PTOE
503.680.5623

From: Fritzie, Martha <MFritzie@clackamas.us>

Sent: Wednesday, August 28, 2024 4:10 PM

To: Snuffin, Christian <CSnuffin@clackamas.us>; DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>

Subject: Trip cap for Z0197-24 & Z0198-24

Good afternoon. On Monday, the Planning Commission held a public hearing on the proposed Comp Plan/zone change on Hwy 212 in Boring. One of the Commissioners brought up a concern about the traffic study. That concern related to the safety analysis and the assumptions used in the discussion about whether turn lanes were needed based on turn lane warrants. (pg. 4 of traffic memorandum in application - page 80 in [the PC packet](#)). It appears that this analysis was based on the proposed development of a coffee kiosk, which in an earlier table is only expected to generate 180 daily trips, rather than the 400 proposed in the trip cap. And the turn lane warrant discussion noted that "the volume of westbound left-turning traffic is just below the threshold at which a turn lane should be considered..." The concern is that if a development came in closer to the 400 trip cap, then it would trigger the need for a left turn lane.

As a result of this concern, the PC made a motion to recommend approval of the Comp Plan/zone change, but with an amended trip cap of 200 (rather than the 400 that the applicant's traffic consultant recommended).

I am curious what your thoughts are on this turn lane analysis and if you have any additional comments on this application or on a recommended trip cap of 200 average daily trips.

The next hearing on this matter will be before the Board of County Commissioners on Wed. Sept 25th and I will need to provide them with a summary of this issue and a recommendation from staff about the trip cap.

Feel free to give me a call if you have any questions. Thanks,
Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning Division
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
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This is not a land use decision as defined by Oregon Revised Statutes 197.015(10).

Fritzie, Martha

From: DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Sent: Thursday, September 5, 2024 10:13 AM
To: Snuffin, Christian; Fritzie, Martha
Cc: TAYAR Abraham
Subject: RE: Trip cap for Z0197-24 & Z0198-24

Warning: External email. Be cautious opening attachments and links.

Hi Christian,

Thank you for providing a detailed response to the Planning Commission proposal to reduce the trip cap based on the potential need for a future turn lane.

Hi Martha,

The proposed land use is for a Comprehensive Plan Amendment and Zone Change (please clarify if I am mistaken). The traffic analysis was prepared to inform the county’s Transportation Planning Rule finding. As stated in ODOT comments, the 400 ADT trip cap meets the Oregon Highway Plan threshold for a small increase and therefore no significant affect on the State highway system. At the time of development, additional analysis will likely be required by the county and ODOT to determine whether safety and operational mitigation is required for access to the State highway. Since the application for development is not being done concurrently, ODOT is unable to comment on whether or not turn lanes will be required as a condition of a future development. Based on this information, ODOT does not see a need to provide updated comments. If you would like to discuss this further, Avi and I are available at the times below for a Teams call:

- 9/5 2:30pm to 3:30pm
- 9/9 3pm to 4pm
- 9/10 11am to 3pm

Thanks,

Marah Danielson, Senior Planner
Development Review Program
Oregon Department of Transportation, Region 1
Marah.b.danielson@odot.oregon.gov
503.731.8258
Cell: 503.979.7628

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From: Snuffin, Christian <CSnuffin@clackamas.us>
Sent: Wednesday, September 4, 2024 2:21 PM
To: Fritzie, Martha <MFritzie@clackamas.us>; DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
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reasonable basis to establish a trip cap to ensure adequacy per the TPR. The imposition of a 200-vehicle daily trip cap would not appear to be supported by any standard or policy. Such a trip cap could also set a precedent that impacts future zone changes.

I hope this helps! Please let me know if you have any questions or would like to discuss further.

Christian Snuffin, PE, PTOE
503.680.5623

From: Fritzie, Martha <MFritzie@clackamas.us>
Sent: Wednesday, August 28, 2024 4:10 PM
To: Snuffin, Christian <CSnuffin@clackamas.us>; DANIELSON Marah B <Marah.B.DANIELSON@odot.oregon.gov>
Subject: Trip cap for Z0197-24 & Z0198-24

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Feel free to give me a call if you have any questions. Thanks,
Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning Division
150 Beaver Creek Road | Oregon City, OR 97045
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(503) 742-4529

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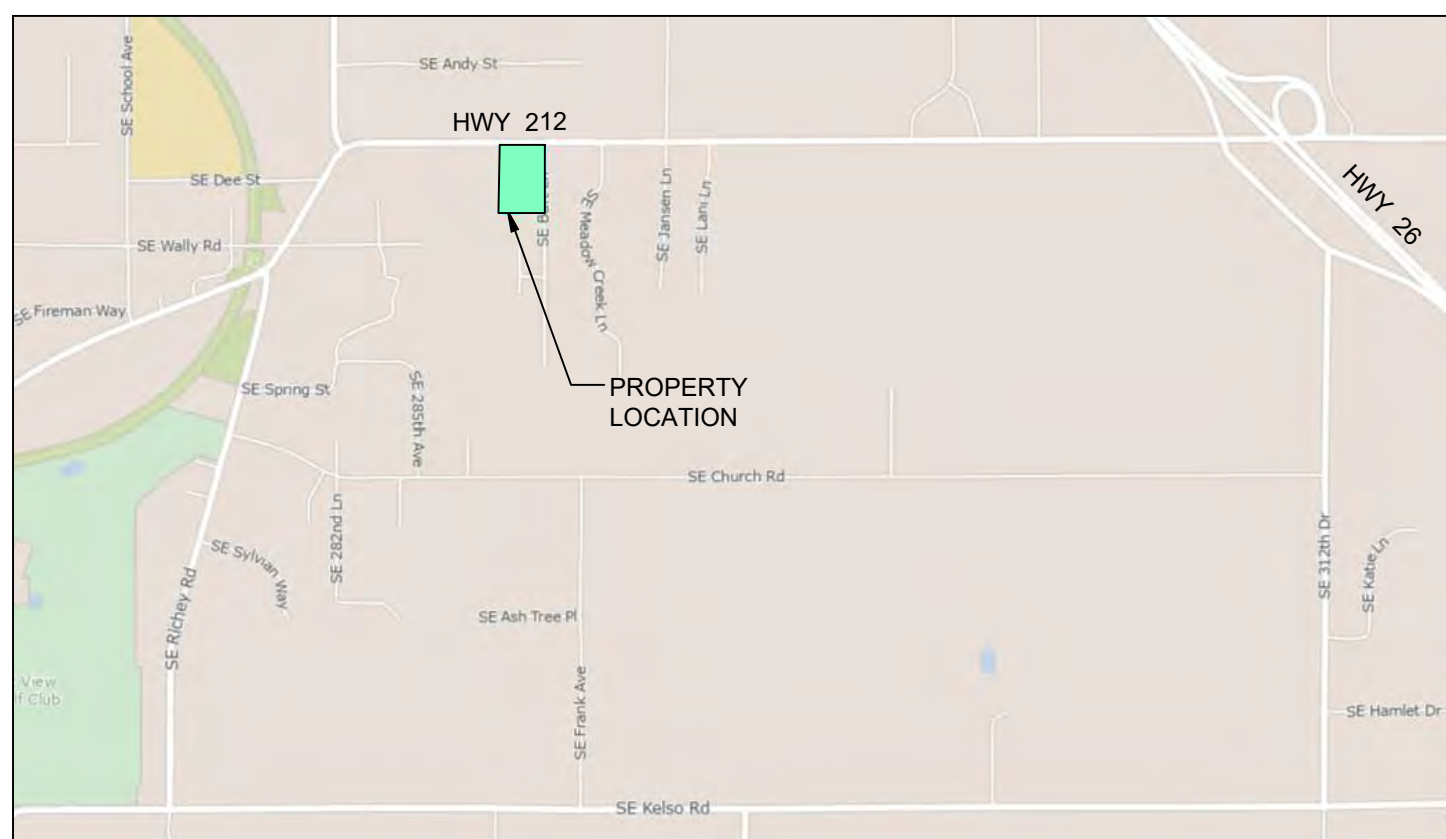


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This is not a land use decision as defined by Oregon Revised Statutes 197.015(10).



VICINITY MAP

SCALE: N.T.S.

GENERAL PROPERTY NOTES:

- SITE PLAN IS CREATED USING INFORMATION REPRODUCED FROM BASE DRAWINGS ACQUIRED FROM PUBLIC RECORD, AND/OR PREPARED BY ORIGINAL/PREVIOUS ARCHITECT, DESIGNER, AND/OR CONSULTANT. BRING ANY DISCREPANCIES BETWEEN DESIGN DOCUMENTS AND ACTUAL PROJECT CONDITIONS TO THE IMMEDIATE ATTENTION OF THE BUILDING ENCLOSURE CONSULTANT AND REQUEST A REVIEW.
- PARCELS, LOTS, BUILDINGS, AND/OR AREAS DESIGNATED AS NOT IN CONTRACT (N.I.C.) ARE OUTSIDE OF THE LIMITS OF THE PROPOSED SCOPE. N.I.C. BUILDINGS MAY BE ANCILLARY OR NOT BE DIRECTLY ASSOCIATED WITH THE PROJECT PROPERTY AT ALL. N.I.C. DESIGNATED BUILDINGS AND AREAS ARE INCLUDED FOR SITUATIONAL REFERENCE TO THE BOUNDARIES OF THE PROJECT ONLY.
- NO NEW CONSTRUCTION TO BE PROPOSED FOR THIS REZONED PROPERTY.

SITE LEGEND:

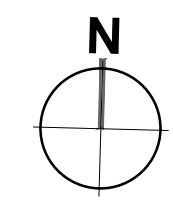
- APPROXIMATE AREAS OF EXISTING 'MAJOR' SITE TREES.
- APPROXIMATE LOCATION(S) OF EXISTING SITE WATER SUPPLY LINE.
- APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL SUPPLY LINE.
- PROPOSED 1.0 ACRE AREA FOR REZONING OF THE EXISTING 3.80 ACRE SITE FROM COMPREHENSIVE PLAN MAP UCR (URBAN UNINCORPORATED COMMUNITY RESIDENTIAL) TO RC (RURAL COMMERCIAL) AS WELL AS THE CORRESPONDING ZONE CHANGE FROM RA-1 (RURAL AREA RESIDENTIAL, 1 ACRE) TO RC (RURAL COMMERCIAL).

SITE KEY NOTES:

- EXISTING PAVED PROPERTY ACCESS DRIVE/APRON.
- EXISTING HABITABLE STRUCTURE.
- EXISTING NON-HABITABLE ANCILLARY STORAGE/SHOP BUILDING TO REMAIN.
- EXISTING ONSITE CONCRETE DRIVES, APRONS, WALKWAYS, AND FLATWORK AREAS.
- EXISTING UNIMPROVED/LANDSCAPED AREAS.
- VACANT LAND PER METRO DRC.
- APPROXIMATE LOCATION OF SEASONAL CREEK AND HIGHWAY RUNOFF.
- APPROXIMATE LOCATION(S) OF EXISTING SITE WATER LINE AND METER.
- APPROXIMATE LOCATION OF EXISTING OVERHEAD ELECTRICAL POWER LINE ENTERING PROPERTY.
- APPROXIMATE LOCATION OF EXISTING ELECTRICAL POWER POLES.
- EXISTING 1930 FARMHOUSE TO REMAIN.
- EXISTING SHALLOW RUN-OFF WELL (APPROXIMATE 15' DEPTH) TO BE VACATED. WELL SHALL BE FILLED WITH CLEAN GRAVEL FROM THE AQUIFER BOTTOM TO THE TOP OF WELL PIT AND CASING AND PERMANENTLY CAPPED. BACKFILL REMAINDER OF WELL AREA WITH COMPACTED TOPSOIL.
- EXISTING CARPORT STRUCTURE TO BE COMPLETELY REMOVED AND LEGALLY DISPOSED OF. OWNER TO ENSURE REMOVAL OCCURS PRIOR TO FORMAL ADOPTION OF REZONE.
- APPROXIMATE LOCATION OF EXISTING SEPTIC TANK, LEACH FIELD (SOLID LINE), AND BACKUP LEACH FIELD (DASHED LINE) TO REMAIN.
- PROSPECTIVE DESIGNATED AREA FOR FUTURE 16'-0" WIDE DRIVEWAY ACCESS FROM HIGHWAY 212 TO EXISTING SHOP BUILDING.

SITE AREAS AND INFORMATION:

- Site Address: 28712 SE Highway 212, Boring Oregon 97009
- Total Site Area: 3.80 AC.
- Proposed Area of Rezone: 1.0 AC
- County Seat: Clackamas
- Zoning: RA-1 (Rural Area Residential, 1 Acre)
- Proposed Revised Zoning: RC (Rural Commercial)
- Map ID: 24E06BA
- Assessor Map/Tax Lot No.: 24E06BA00705
- Urban Growth Boundary: Outside
- Habitable Building Area: 1,396 SF (Existing)



CLIENT	
James Kenney C/o Jerry Wyatt 503.985.9950	
ISSUE	
05.01.2024	
Comprehensive Plan Map Amendment	
REVISIONS	
REV.	DATE
1	05.01.2024
PROJECT NAME	
James Kenney File No. ZPAC0061-23 Comprehensive Plan Map and Zone Change 28712 SE Highway 212, Boring, Oregon 97009	

PROJECT NUMBER	24-001
SHEET NAME	EXHIBIT 13 SITE PLAN
SHEET NUMBER	A1.00

Fritzie, Martha

From: Jerry Wyatt <jwyatt@forensicbuilding.com>
Sent: Tuesday, September 17, 2024 3:52 PM
To: Fritzie, Martha
Cc: james Kenny
Subject: Re: BCC hearing on Z0197-24 & Z0198-24 and revised site plan as of Today
Attachments: 2024.09.17 - A1.00 Site Plan - Boring Comp_Revised[1].pdf

Warning: External email. Be cautious opening attachments and links.

Good afternoon, Martha,

Please find attached the revised Site Plan per our discussion today. Let me know if you need anything else

Thanks,

Jerry

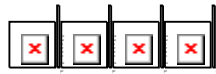


Jerry Wyatt
 Building Science Consultant
jwyatt@forensicbuilding.com

Forensic Building Consultants

O: 503.772.1114
 F: 503.772.4039

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www.forensicbuilding.com



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From: "Fritzie, Martha" <MFritzie@clackamas.us>
Date: Tuesday, September 17, 2024 at 9:03 AM
To: Jerry Wyatt <jwyatt@forensicbuilding.com>
Subject: RE: BCC hearing on Z0197-24 & Z0198-24 and revised site plan



External (mfritzie@clackamas.us)

9:30 should work. I will give you a call.

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

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From: Jerry Wyatt <jwyatt@forensicbuilding.com>
Sent: Monday, September 16, 2024 2:30 PM
To: Fritzie, Martha <MFritzie@clackamas.us>
Subject: Re: BCC hearing on Z0197-24 & Z0198-24 and revised site plan

Warning: External email. Be cautious opening attachments and links.

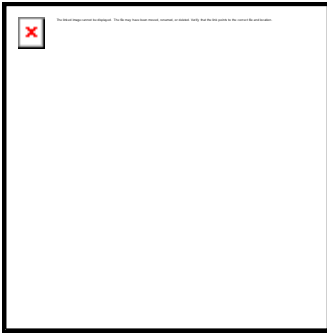
How about 9:30

Jerry

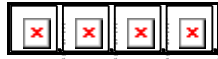


Jerry Wyatt
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From: "Fritzie, Martha" <MFritzie@clackamas.us>
Date: Monday, September 16, 2024 at 2:28 PM
To: Jerry Wyatt <jwyatt@forensicbuilding.com>
Subject: RE: BCC hearing on Z0197-24 & Z0198-24 and revised site plan



External (mfritzie@clackamas.us)



Yes – what time works for you?

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

Yes – what time Working hours 7:30am to 6:00pm | Monday – Thursday

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From: Jerry Wyatt <jwyatt@forensicbuilding.com>
Sent: Monday, September 16, 2024 2:17 PM
To: Fritzie, Martha <MFritzie@clackamas.us>; james christopher <columbiarivermariner@yahoo.com>
Subject: Re: BCC hearing on Z0197-24 & Z0198-24 and revised site plan

Warning: External email. Be cautious opening attachments and links.

Hi Martha,

Can we connect tomorrow morning.

Jerry



Jerry Wyatt
Building Science Consultant
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From: "Fritzie, Martha" <MFritzie@clackamas.us>
Date: Monday, September 16, 2024 at 8:55 AM
To: Jerry Wyatt <jwyatt@forensicbuilding.com>, james Kenny <columbiarivermariner@yahoo.com>
Subject: RE: BCC hearing on Z0197-24 & Z0198-24 and revised site plan



External (mfritzie@clackamas.us)



Thank you, Jerry. Do you have a few minutes later this morning to chat about this site plan?

I should be available between 10:30 and noon.

Martha

Martha Fritzie, Principal Planner
Clackamas County DTD | Planning & Zoning
150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
(503) 742-4529

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From: Jerry Wyatt <jwyatt@forensicbuilding.com>
Sent: Friday, September 13, 2024 4:16 PM
To: Fritzie, Martha <MFritzie@clackamas.us>; james christopher <columbiarivermariner@yahoo.com>
Subject: Re: BCC hearing on Z0197-24 & Z0198-24 and revised site plan

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Revised Map at 1 acre for the rezone size.

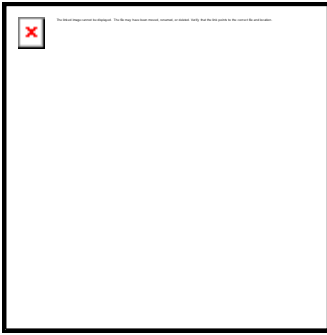
Jerry



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From: Jerry Wyatt <jwyatt@forensicbuilding.com>
Date: Friday, September 13, 2024 at 1:26 PM
To: "Fritzie, Martha" <MFritzie@clackamas.us>, James Kenny <columbiarivermariner@yahoo.com>
Subject: Re: BCC hearing on Z0197-24 & Z0198-24 and revised site plan

Good morning, Martha and James,

Please find attached the revised Site Plan per the Commissions comments and review.

Thanks,

Jerry



Jerry Wyatt
Building Science Consultant
jwyatt@forensicbuilding.com

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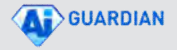


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From: "Fritzie, Martha" <MFritzie@clackamas.us>
Date: Wednesday, August 28, 2024 at 4:30 PM
To: Jerry Wyatt <jwyatt@forensicbuilding.com>, James Kenny <columbiarivermariner@yahoo.com>
Subject: BCC hearing on Z0197-24 & Z0198-24 and revised site plan



External (mfritzie@clackamas.us)



Good afternoon. In the next couple of weeks, I will be putting materials together for the Board of County Commissioners hearing (Sept. 25th) and it would be best if we have a revised site plan before that hearing, so that the Board will know exactly what it is they are being asked to approve. Just as a reminder, the site plan will need to show the boundaries of the area to be rezoned and demonstrate that:

- none of the zoning lines go through any structures or septic systems/ drainfields; and
- the area to be rezoned contains at least one acre.

If I have a site plan that demonstrates those things, I will remove the proposed condition #3.

Please feel free to give me a call if you have any questions or concerns.

Thanks,
Martha

 Martha Fritzie, Principal Planner
 Clackamas County DTD | Planning & Zoning Division
 150 Beaver Creek Road | Oregon City, OR 97045
mfritzie@clackamas.us
 (503) 742-4529

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This is not a land use decision as defined by Oregon Revised Statutes 197.015(10).