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AssistantsOctober 8<sup>th</sup>, 2020Board of County Commissioners  
Clackamas County

Members of the Board:

**Adoption of Previously Approved  
Comprehensive Plan Map Amendment and Zone Change Application**

<b>Purpose/Outcomes</b>	Amend the Clackamas County Comprehensive Plan map and zoning designation
<b>Dollar Amount and Fiscal Impact</b>	<i>None identified</i>
<b>Funding Source</b>	<i>N/A</i>
<b>Duration</b>	<i>Indefinitely</i>
<b>Previous Board Action</b>	<i>Board of County Commissioners ("Board" or "BCC") held a public hearing on September 16<sup>th</sup>, 2020, at which time the BCC voted 5-0 to approve the application, and directed staff to draft the board order and the findings of fact, both of which are included with this report.</i>
<b>Strategic Plan Alignment</b>	<i>1. Build public trust through good government.</i>
<b>Contact Person</b>	<i>Nate Boderman, 503-655-8364</i>
<b>Contract No.</b>	<i>None</i>

**BACKGROUND:**

Z0079-20-CP and Z0080-20-ZAP include a Comprehensive Plan Amendment from Rural to Rural Industrial and to zoning designation change of the subject property from Rural Residential Farm Forest 5-Acre, RRFF-5, to Rural Industrial (RI) to facilitate ongoing industrial operations on the site, comprised of two separate tax lots for 23020 SE Eagle Creek Rd and 23340 SE Eagle Creek Rd, T2S, R4E, Section 32, Tax Lot 4901 and 4902.

A public hearing was held on August 24<sup>th</sup>, for Planning Commission consideration of

the proposed Comprehensive Plan map and zoning designation changes. The Planning Commission voted 9-0 to recommended approval of the proposal, as recommended by staff.

On September 16<sup>th</sup>, 2020 a public hearing was conducted before the BCC to consider the Comprehensive Plan map and zoning designation changes, during which the BCC orally voted 5-0 to approve the application, as recommended by staff and the Planning Commission.

The Board then directed staff to draft and order and findings consistent with its decision. A copy of the Board Order implementing the oral decision, and findings and conclusions to be adopted by the Board has been attached.

**RECOMMENDATION:**

Staff recommends the Board approve the attached Board Order and the findings and conclusions which are attached thereto.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Nate Boderman".

Nate Boderman  
Assistant County Counsel

In the Matter of a Comprehensive  
Plan Amendment and Zone Map Amendment  
from Greg Ernst on property  
described as 23020 SE Eagle Creek Rd  
and 23340 SE Eagle Creek Rd, T2S, R4E,  
Section 32, Tax Lot 4901 and 4902

ORDER NO.

File Nos.: Z0079-20-CP and Z0080-20-ZAP

This matter coming regularly before the Board of County Commissioners, and it appearing that Greg Ernst made an application for a Comprehensive Plan Amendment from Rural to Rural Industrial and to change the zoning designation of the subject property from Rural Residential Farm Forest 5-Acre, RRFF-5, to Rural Industrial (RI) to facilitate ongoing industrial operations on the site, comprised of two separate tax lots for 23020 SE Eagle Creek Rd and 23340 SE Eagle Creek Rd, T2S, R4E, Section 32, Tax Lot 4901 and 4902, and;

It further appearing that after appropriate notice a public hearing was held before the Planning Commission on August 24th, 2020 at which testimony and evidence was presented, and that, at this hearing, the Commission, by the vote of 9-0, recommended approval of this request; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on September 16th, 2020 at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by the vote of 5-0 to approve the application, with the Comprehensive Plan Amendment and Zone Map Amendment, as identified in Order Exhibit A, and subject to the conditions of approval that are in Order Exhibit B, which are attached to this order and incorporated herein by reference.

Based on the evidence and testimony presented this Board makes the following findings and conclusions:

1. The applicant requests approval of a Comprehensive Plan Amendment from Rural to Rural Industrial and Zone Change from Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Industrial (RI) for the area identified in Order Exhibit A.
2. This Board adopts as its findings and conclusions the *Findings of Fact for Z0079-20-CP and Z0080-20-ZAP* document attached hereto and incorporated herein as Order Exhibit B, which finds the application to be in compliance with the applicable criteria.

In the Matter of a Comprehensive  
Plan Amendment and Zone Map Amendment  
from Greg Ernst on property  
described as 23020 SE Eagle Creek Rd  
and 23340 SE Eagle Creek Rd, T2S, R4E,  
Section 32, Tax Lot 4901 and 4902

ORDER NO.

File Nos.: Z0079-20-CP and Z0080-20-ZAP

NOW THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive Plan Amendment and Zone Map Amendment are hereby APPROVED, for the area identified in Order Exhibit A, and subject to the conditions of approval identified in Order Exhibit B, which are attached to this order and incorporated herein by reference.

DATED this 8<sup>th</sup> day of October, 2020

BOARD OF COUNTY COMMISSIONERS

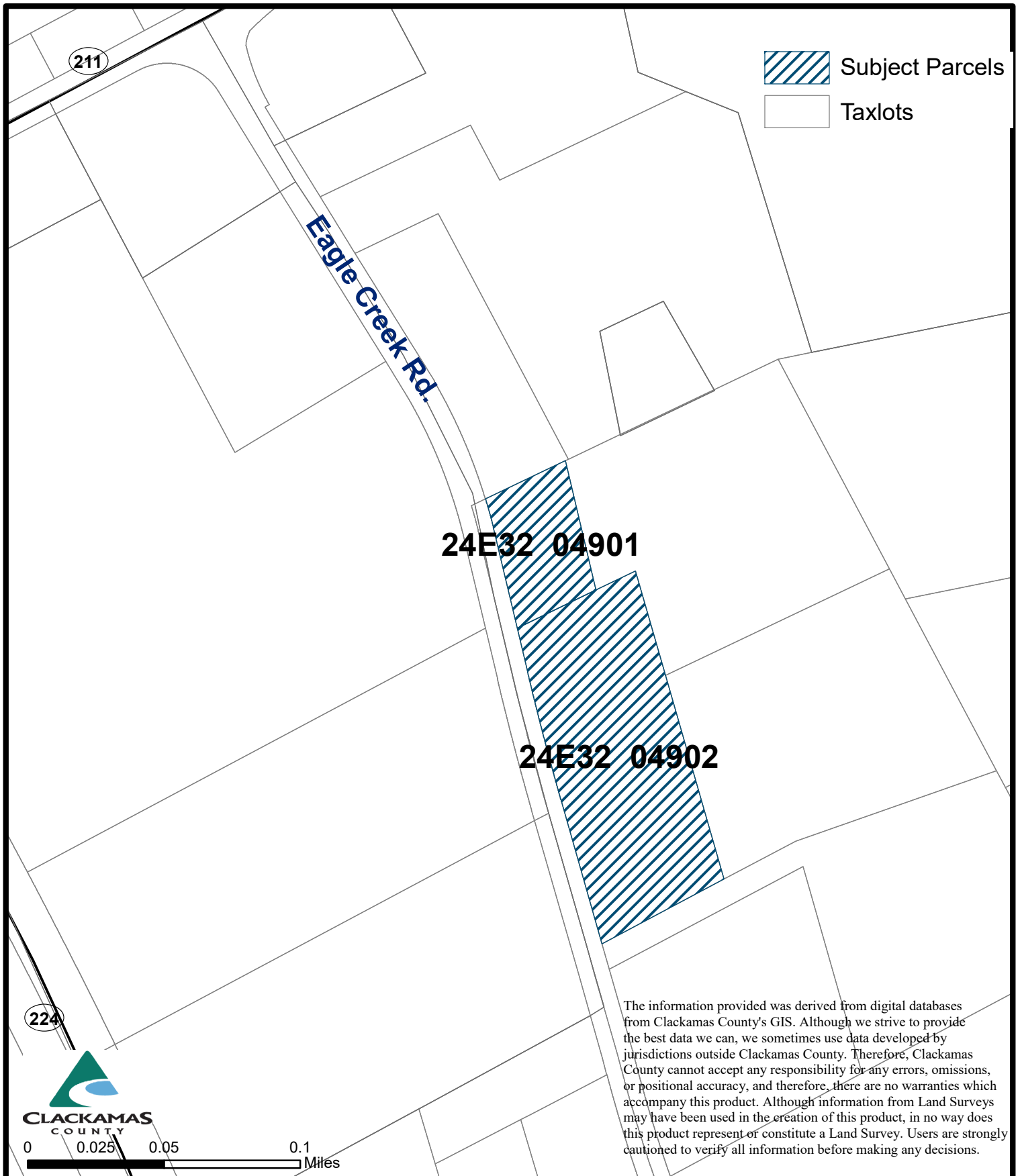
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Chair

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Recording Secretary

**Board Order Exhibit A:  
Z0079-20-CP & Z0080-20-ZAP  
Eagle Creek Rd. Comprehensive Plan/Zoning Designation  
Amendment (Rural/RRFF-5 to Rural Industrial/RI)**



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**FINDINGS OF FACT FOR Z0079-20-CP & Z0080-20-ZAP:  
COMPREHENSIVE PLAN AMENDMENT AND ZONE CHANGE**

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**DATE:** September 28, 2020

**ADOPTION DATE:** September 16<sup>th</sup>, 2020

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

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

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

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

**APPLICANT(S):** Greg Ernst

**OWNER(S):** Greg Ernst

**TOTAL AREA:** Approximately 4.72 acres

**ZONING:** RRF-5 (Rural Residential Farm Forest 5 acre)

**COMPREHENSIVE PLAN DESIGNATION:** Rural

**COMMUNITY PLANNING ORGANIZATION:** Eagle Creek-Barton CPO

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

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

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

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Noticing

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

Responses Received:

None

Exhibits:

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



## **I. BOARD ADOPTION**

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

The Board APPROVES the Comprehensive Plan amendment and Zone Change Application Z0079-20-CP and Z0080-20-ZAP because the proposed Comprehensive Plan Amendment and Zone Change meets the applicable Comprehensive Plan criteria, statewide planning goals, and ZDO Section 1202. The Board adopts the following findings in support of the approval, as detailed in Section II.

## **II. COMPREHENSIVE PLAN AMENDMENT APPLICATION FINDINGS AND DECLARATIONS**

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

### **A. Background and Proposed Comprehensive Plan Amendment**

#### Subject Site

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

**Figure 1: Aerial View of the Properties**



### Land Use History

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

### Proposal

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

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

**Service Providers:**

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

**B. Submittal Requirements**

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

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

**The submittal requirements of Subsection 1307 and 1202.02 are met.**

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**C. Statewide Planning Goal Consistency**

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

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

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

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

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

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

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

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

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

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

**Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources:** To conserve open space and protect natural and scenic resources.

Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapter 3 (Natural Resources and Energy) and Chapter 9 (Open Space, Parks and Historic Sites) of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**This application is consistent with Goal 11.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**This application is consistent with Goal 12.**

**Goal 13; Energy Conservation: To conserve energy.**

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

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

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

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

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

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

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

## **D. Compliance with Clackamas County Comprehensive Plan Policies**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

Noise and Air Quality:

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

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

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

**This application is consistent with Chapter 3.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**In summary, this proposal is consistent with Chapter 5.**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### City, Special District and Agency Coordination Section

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

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

#### Amendments and Implementation Section

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

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

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

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

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

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

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

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

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

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

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

**This policy is met.**

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

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

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

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

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

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

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

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

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

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

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

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

*classification.*”

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

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

### **III. ZONE CHANGE FINDINGS**

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

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

#### Chapter 2; Citizen Involvement

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

#### Chapter 3; Natural Resources and Energy

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

#### Chapter 4; Land Use

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

#### Chapter 5; Transportation

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

#### Chapter 6; Housing;

**This Chapter is not applicable.**

#### Chapter 7; Public Facilities and Services

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

#### Chapter 8; Economics



**This Chapter is not applicable.**

Chapter 9; Open Space, Parks, and Historic Sites

**This Chapter is not applicable.**

Chapter 10; Community Plan and Design Plans

**This Chapter is not applicable.**

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

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

- 2. **1202.03(B)** If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider's existing capital improvement plan: sanitary sewer, surface water management, and water. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.*

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

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

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

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

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

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

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

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

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

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

This application is subject to the provisions of this OAR:

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

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

...

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

*(b) Sections (1) to (9) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family dwelling on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000.*

- (c) *This rule does not apply to types of land listed in (A) through (H) of this subsection:*
- (A) *Land inside an acknowledged urban growth boundary;*
  - (B) *Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22;*
  - (C) *Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, divisions 21 or 27;*
  - (D) *Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;*
  - (E) *Resource land, as defined in OAR 660-004-0005(2);*
  - (F) *Nonresource land, as defined in OAR 660-004-0005(3);*
  - (G) *Marginal land, as defined in former ORS 197.247 (1991 Edition); or*
  - (H) *Land planned and zoned primarily for rural industrial, commercial, or public use.*

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

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

### **III. SUMMARY**

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