



Stephen L. Madkour
County Counsel

January 19th, 2023

BCC Agenda Date/Item: _____

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Board of County Commissioners
Clackamas County

Adoption of Previously Approved Comprehensive Plan Map Amendment and Zone Change for Z0354-22-CP and Z0356-22-ZAP. No County General Funds are involved.

Previous Board Action/Review	<i>Board of County Commissioners (“Board”) held a public hearing on December 14th, 2022, at which time the Board voted 4-0 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. Briefed at Issues on January 17th, 2023.</i>		
Performance Clackamas	<i>1. Build public trust through good government.</i>		
Counsel Review	NB	Procurement Review	N/A
Contact Person	Nate Boderman	Contact Phone	503-655-8364

EXECUTIVE SUMMARY:

Z0354-22-CP and Z0356-22-ZAP include a Comprehensive Plan Map amendment from Agriculture (AG) to Forest (F), with a corresponding zone change from Exclusive Farm Use (EFU) to Timber (TBR) or Ag/Forest (AF/F) for the approximately 14.85-acre property described as T4S, R2E, Section 09, Tax Lot 01300, W.M. The property has no site address.

A public hearing was held on November 14th, 2022, for Planning Commission consideration of the proposed Comprehensive Plan Map amendment and zone change. The Planning Commission voted unanimously to recommend approval of the proposal, including changing the zoning to the TBR zoning district, as recommended by Staff.

On December 14th, 2022, a public hearing was conducted before the Board to consider the Comprehensive Plan Map amendment and zone change, after which the Board orally voted 4-0 to approve the application subject to conditions, as recommended by Staff and the Planning Commission.

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

RECOMMENDATION:

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

Respectfully submitted,

/s/ Nate Boderman

Nate Boderman
Assistant County Counsel

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

In the Matter of a Comprehensive
Plan Map amendment and Zoning Map
Amendment proposed by Joanne
Schaber for property described as
T4S, R2E, Section 09, Tax Lot 01300,
W.M.



Order No. _____
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File Nos.: Z0354-22-CP and Z0356-22-ZAP

This matter coming regularly before the Board of County Commissioners, and it appearing that Joanne Schaber made an application for a Comprehensive Plan Map amendment from Agriculture (AG) to Forest (F), with a corresponding zone change from Exclusive Farm Use (EFU) to Timber (TBR) or Ag/Forest (AG/F), for the approximately 14.85-acre property described as T4S, R2E, Section 09, Tax Lot 01300, W.M., and;

Whereas, it further appearing that after appropriate notice, a public hearing was held before the Planning Commission on November 14th, 2022, at which testimony and evidence was presented, and that, at this hearing, the Commission unanimously recommended approval of this request; and

Whereas, it further appearing that after appropriate notice, a public hearing was held before the Board of County Commissioners on December 14th, 2022, at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by a vote of 4 - 0, to approve the application, with the Comprehensive Plan Map amendment to Forest (F) and zone change to Timber (TBR) for the subject property, 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 Map amendment from Agriculture (AG) to Forest (F), with a corresponding zone change from Exclusive Farm Use (EFU) to Timber (TBR) or Ag/Forest (AG/F) for the 14.85-acre area described as T4S, R2E, Section 09, Tax Lot 01300, W.M., and illustrated in Order Exhibit A.
2. The Board finds that the application satisfies all applicable State of Oregon and County criteria to amend the County's Comprehensive Plan Map land use plan designation for the subject property from Agriculture (AG) to Forest (F) and to rezone the proerpty from Exclusive Farm Use (EFU) to Timber (TBR).

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

In the Matter of a Comprehensive
Plan Map amendment and Zoning Map
Amendment proposed by Joanne
Schaber for property described as
T4S, R2E, Section 09, Tax Lot 01300,
W.M.



Order No. _____
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File Nos.: Z0354-22-CP and Z0356-22-ZAP

3. This Board adopts as its findings and conclusions the "*Findings of Fact for Z0354-22-CP and Z0356-22-ZAP*" document attached hereto and incorporated herein as Order Exhibit B, which finds the application to be in compliance with the applicable criteria.

NOW THEREFORE, the Clackamas County Board of Commissioners do hereby order that the requested Comprehensive Plan Map amendment and zone change are hereby APPROVED for the area identified in Order Exhibit A, subject to the conditions of approval identified in Order Exhibit B, which are attached to this order and incorporated herein by reference.

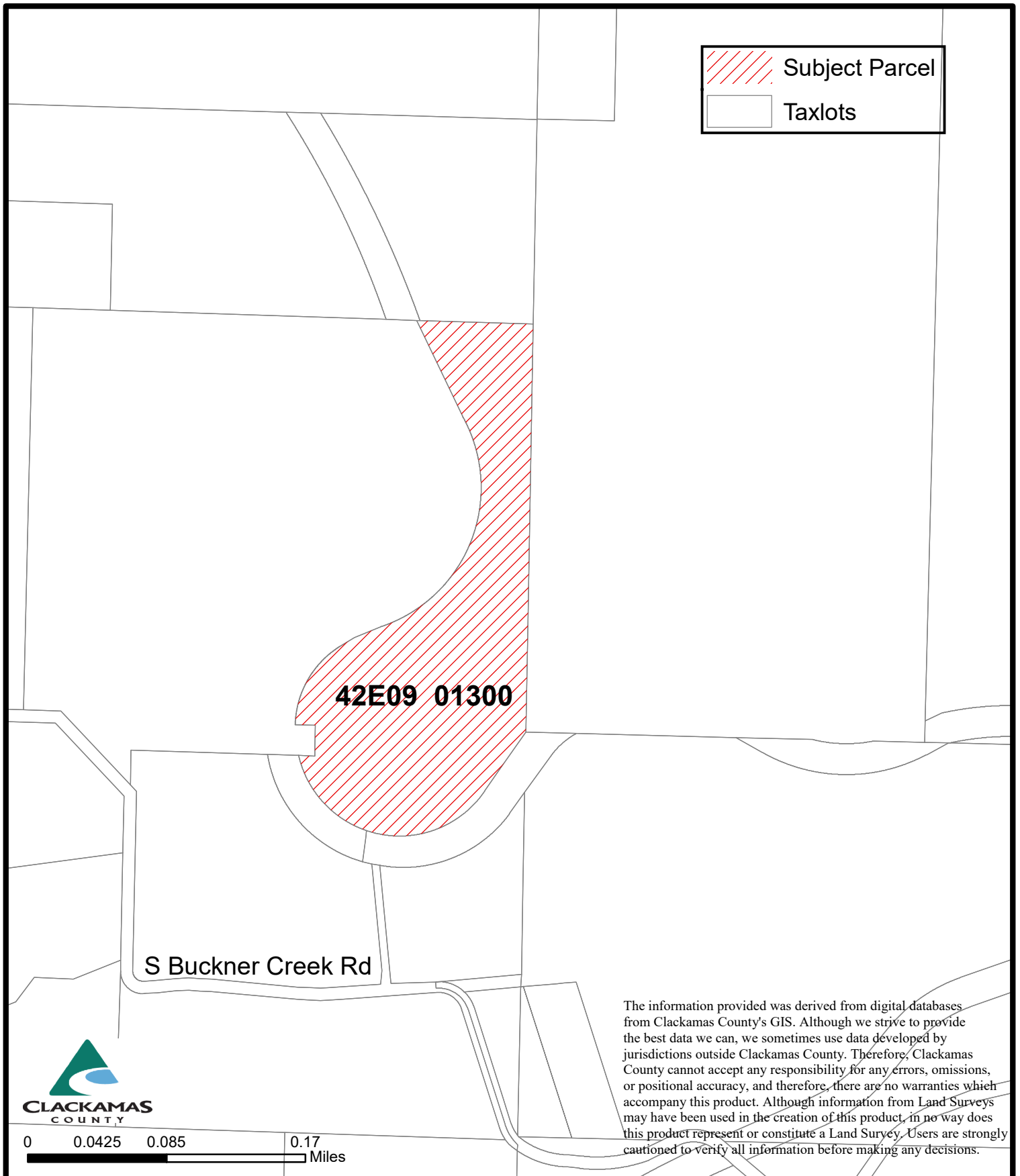
DATED this 19th day of January, 2023

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

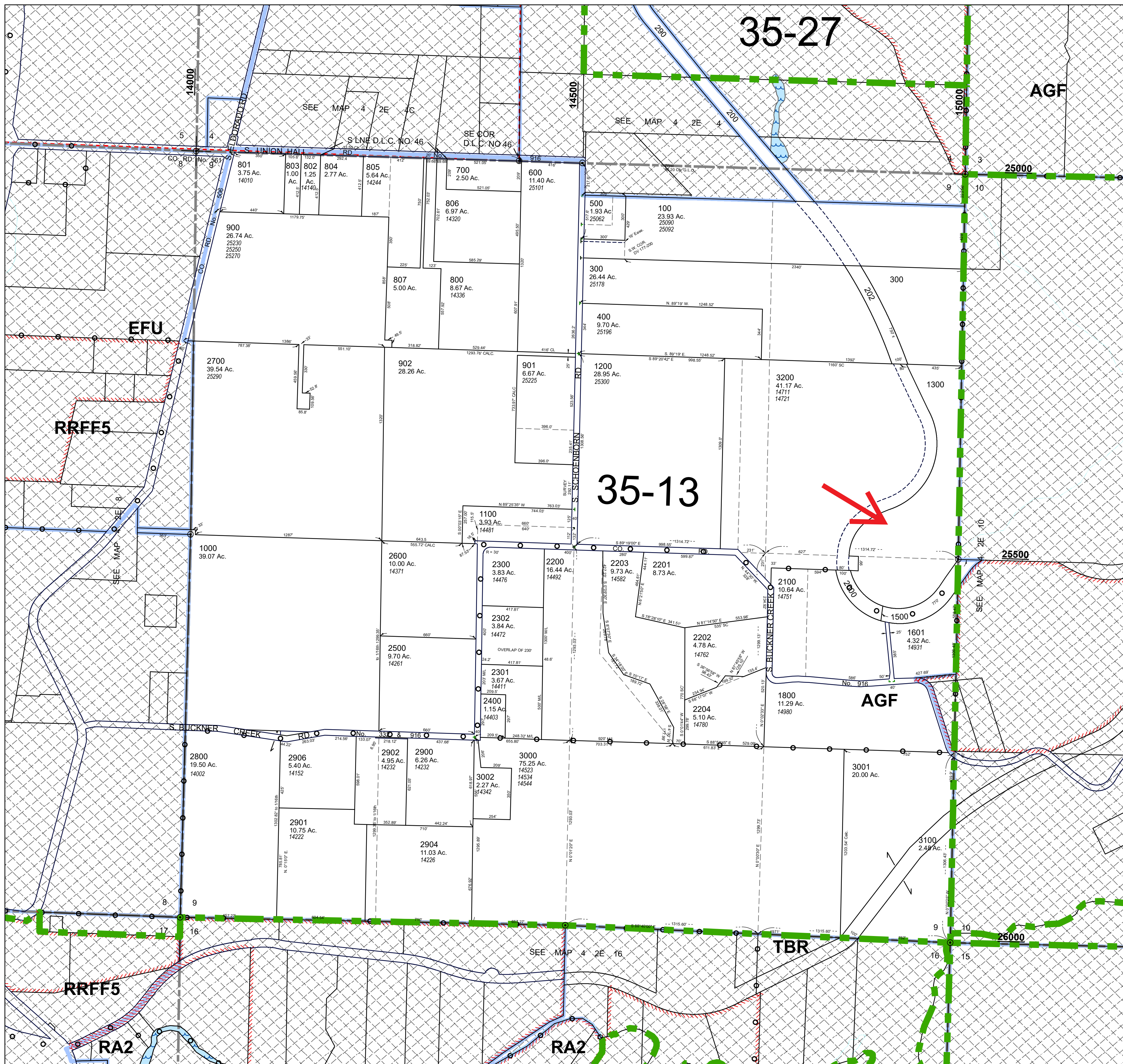
Exhibit A:
Z0354-22-CP & Z0356-22-ZAP
Schaber Comprehensive Plan/Zoning Designation
Amendment (Agriculture/EFU to Forest/TBR)



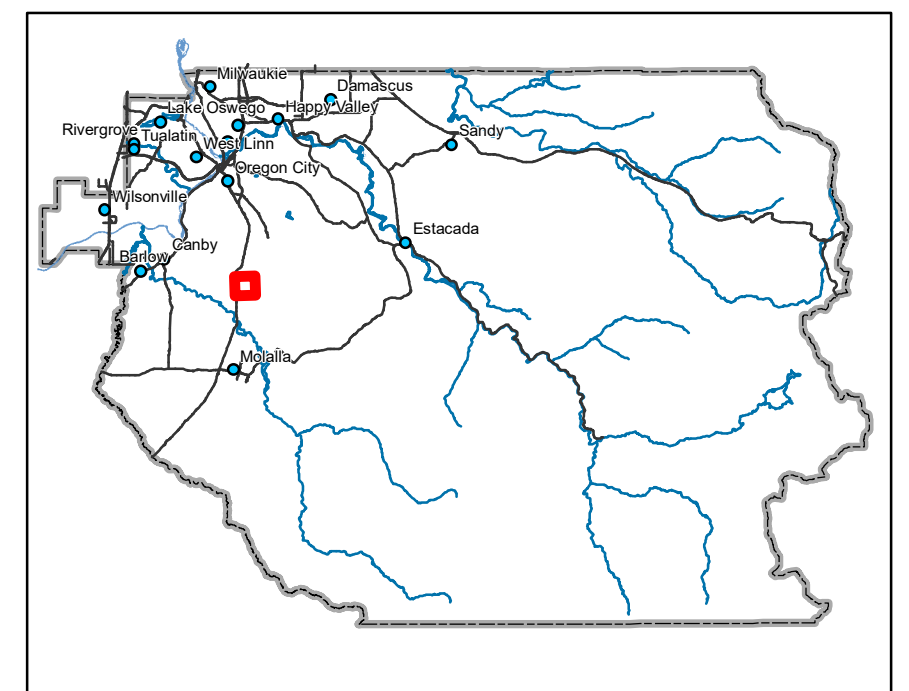
SECTION 9 T.4S. R.2E. W.M.
 CLACKAMAS COUNTY
 1" = 400'

Cancelled Taxlots

- 201
- 301
- 1290
- 1400
- 1700
- 1900
- 2903
- 2905
- 1600



- 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

Exhibit B
Findings of Fact for Z0354-22-CP and Z0356-22-ZAP:
Comprehensive Plan Map Amendment and Zone Change

SECTION I: GENERAL INFORMATION

PLANNING FILE NOS.: Z0354-22-CP and Z0356-22-ZAP

ADOPTIOIN DATE: January 19, 2023

PROPOSAL: A Comprehensive Plan Map amendment to change the land use plan designation of the subject property from Agriculture (AG) to Forest (F), with a corresponding zone change of the subject property from Exclusive Farm Use (EFU) to Timber (TBR) or Ag/Forest (AG/F).

No new construction or land uses are proposed in this application. Rather, the Applicant is effectively seeking to change the zoning of the property to reflect the predominant use on the property for several decades and to potentially qualify the property for a forest dwelling in the future. If the designations are changed, the property may qualify for a dwelling under the Forest Template Test (FTT). Approval of such a dwelling would require a separate land use application that would be submitted and reviewed in the future.

LOCATION: T4S, R2E, Section 09 Tax Lot 01300 W.M.; located near 14781 S Buckner Creek Road and approximately one mile northeast of the unincorporated community of Mulino; no site address

APPLICANT(S): Joanne (Joni) Schaber

OWNER(S): Cayla D Schaber

TOTAL AREA: Approximately 14.85 acres

ZONING: Exclusive Farm Use (EFU) District)

COMPREHENSIVE PLAN DESIGNATION: Agriculture

COMMUNITY PLANNING ORGANIZATION: Hamlet of Mulino; David Knight,
chairmulinohamlet@gmail.com

APPLICABLE APPROVAL CRITERIA: This application is subject to: Statewide Planning Goals; Oregon Administrative Rules Chapter 660, Division 18; the Clackamas County Comprehensive Plan, including Chapters 2, 3, 4, 5, and 11; and Clackamas County Zoning and Development Ordinance (ZDO) Section 1202.

SECTION II: CONCLUSION & CONDITIONS OF APPROVAL

The Board of County Commissioners (the “Board”) finds that this application satisfies all applicable State of Oregon and County criteria to amend the County’s Comprehensive Plan Map land use plan designation for the subject property from Agriculture (AG) to Forest (F) and to rezone the property from Exclusive Farm Use (EFU) to Timber (TBR). The Board **APPROVES** applications Z0354-22-CP and Z0356-22-ZAP, subject to the following conditions:

1. The Clackamas County *Non-Urban Area Land Use Map* (Map 4-7a) shall be amended to identify the subject property (Tax Lot 42E09-01300) as being in the Forest (F) Plan designation.
2. The Clackamas County *Non-Urban Area Zoning Map* shall be amended to identify the subject property as being in the Timber (TBR) zoning district.

The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination, if necessary, with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

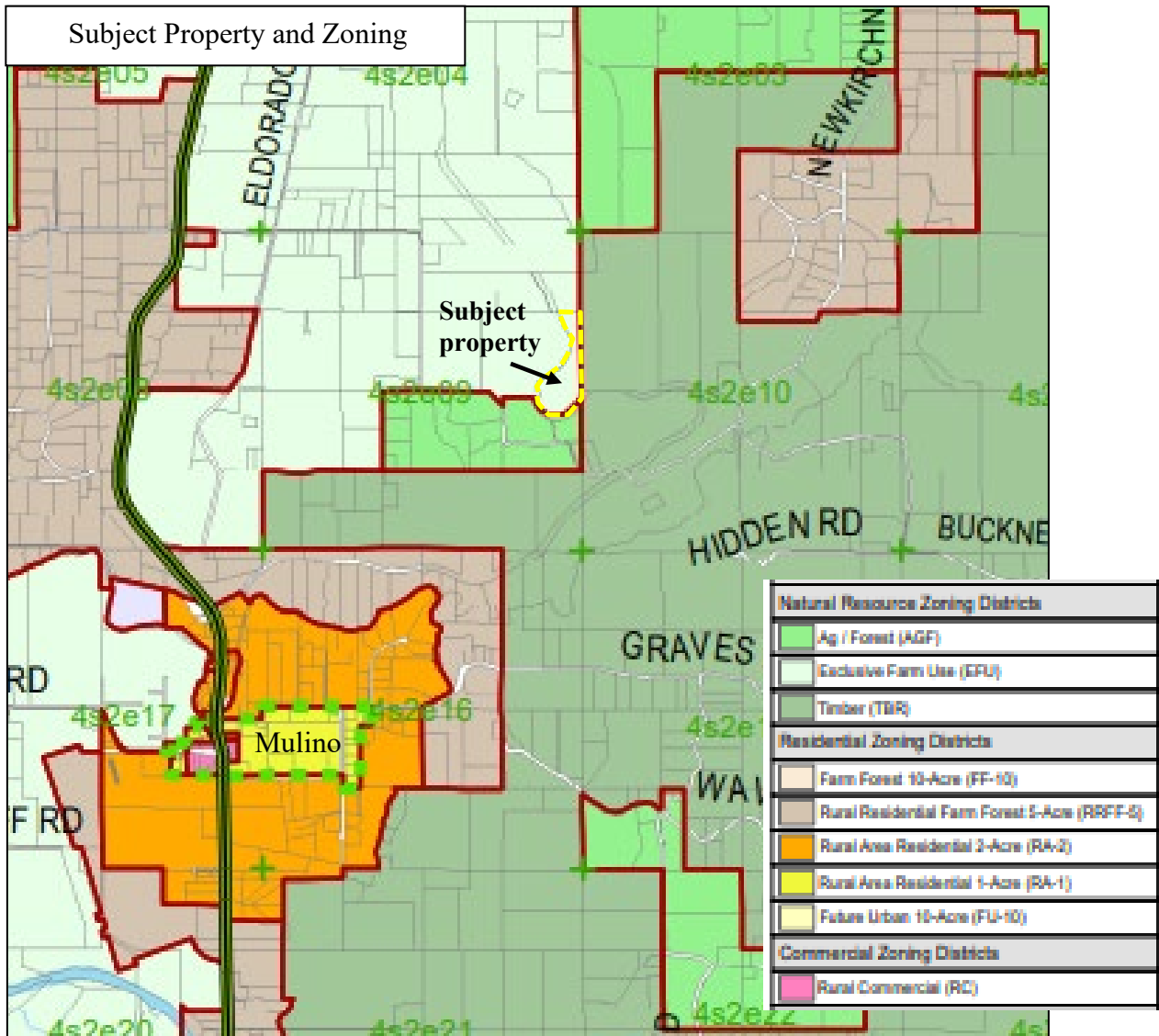
SECTION III: OVERVIEW AND BACKGROUND

The subject property is tax lot 1300 of Assessor’s Map 42E09 with no situs address; it is located near 14781 S Buckner Creek Road and approximately one mile northeast of the unincorporated community of Mulino. The subject site is approximately 14.85 acres, with a current Clackamas County Comprehensive Plan (Plan) land use designation of Agriculture (AG) and located in the Exclusive Farm Use (EFU) zoning district.

Subject property and surrounding area: The subject property is located in a predominantly rural area, with an established rural agricultural and forestry character and pattern of development. Surrounding properties are generally over 10 acres in size and range up to over 70 acres; surrounding properties contain varying levels of both agricultural and forestry related activities and development.

- Immediately east of the subject site are properties zoned Timber (TBR), including several large parcels owned by Port Blakely Tree Farms that appear to be in commercial timber production.
- Immediately north and west of the subject site are properties zoned EFU. Many of the properties to the west and northwest appear to contain cultivated fields and are actively being farmed, but properties to the north and immediately west of the subject site appear forested.
- Immediately south of the subject site are properties within a mixed farm-forest zoning district, Ag/Forest (AG/F); these properties do appear to contain a mix of farms and forested areas.

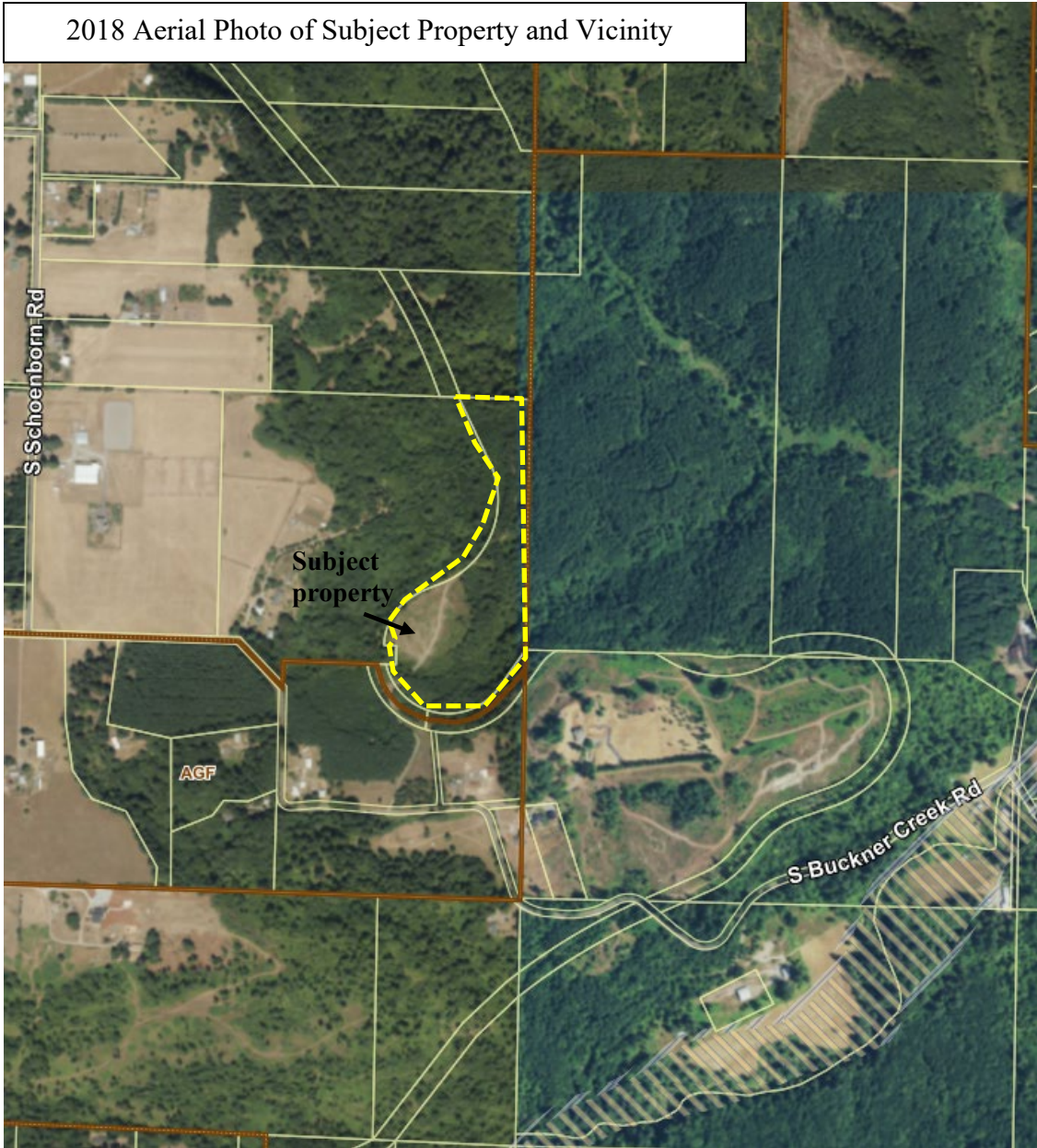
Many of the properties in the vicinity of the subject site also contain a residence (see aerial photos on pages 4 and 5, below).



The subject taxlot is an irregular shape, most closely resembling a teardrop. It contains gently sloping topography within the southwest and middle portions of the site and contains steeper slopes on the eastern and north portions of the site. Although the Applicant notes that slopes “at the building site” are less than 10%; based mapped contours, there are slopes that exceed 20% on some portions of the site and the property has been described in the traffic analysis memorandum as having “relatively rough terrain.”

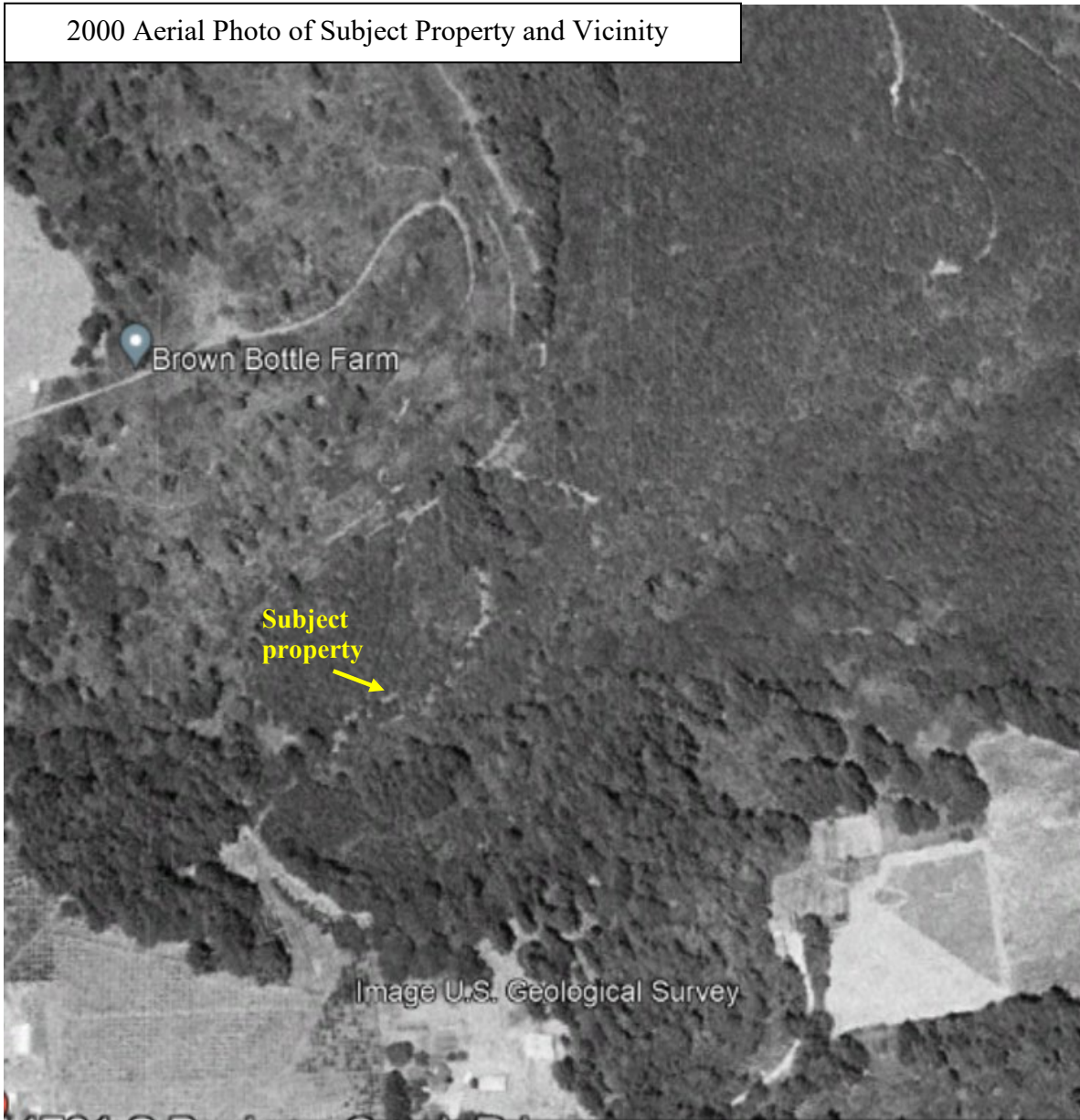
The Applicant notes that “the majority of the parcel is in timber production and natural forests” and aerial photography indicates that this is indeed true and that the site, despite being zoned EFU, has been forested, not farmed for several decades.

2018 Aerial Photo of Subject Property and Vicinity



Source: Clackamas County GIS, PlanMap

2000 Aerial Photo of Subject Property and Vicinity



Source: Google Earth

The subject property contains no structures. There are no mapped principal rivers, river and stream conservation areas, or floodplain present on the subject site. The Applicant identifies two spring-fed streams on the property – one a year-round stream and one seasonal. While these are not streams that are protected under the county’s ZDO provisions, they are the water features that have been identified as wetlands. The Department of State Lands (DSL) Statewide Wetland Inventory identifies a small riverine wetland within the southernmost portion of the property. DSL has reviewed the subject property and Comprehensive Plan/zone change proposal and provided feedback, which has been included in the record.

Soils: Based on mapped soil types, the subject site is considered (under state law) to be “low-value” farmland. The site is comprised of Class 4 (78D, Saum silt loam) and Class 6 (92F, Xerochrepts with Haploxerolls, very steep) soils, with each soil type covering roughly half of the subject site. These soils, however, have relatively high average wood production capabilities and, based on information from the Oregon Department of Forestry, are rated at 138 cubic feet/acre/year and 145 cubic feet/acre/year, respectively.

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 1/2-mile 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.

To date, the only written response received has been from the Oregon Dept. of State Lands (DSL), in response to Wetland Land Use Notification for subject site; DSL notes that no wetland impacts are anticipated as part of the proposal.

Public hearings: Two public hearings were held to consider the proposal to change the Comprehensive Plan and zoning designations.

- November 14, 2022: a public hearing was held before the Planning Commission. The Applicant and one neighbor were the only parties who testified at the hearing. The neighbor provided neutral comments and noted that they were primarily just interested to learn what was happening. The Planning Commission voted unanimously to recommend approval of Z0354-22-CP and Z0356-22-ZAP.
- December 14, 2022: a public hearing was held before the Board. The Applicant and a representative from the County’s Planning Commission testified at the hearing. The Board voted 4-0 to approve Z0354-22-CP and Z0356-22-ZAP.

SECTION IV: FINDINGS

This application is subject to:

1. Statewide Planning Goals;
2. Oregon Administrative Rules (OAR) Chapter 660, Division 18;
3. The Clackamas County Comprehensive Plan; and
4. Zoning and Development Ordinance (ZDO) Sections 1202, *Zone Changes* and 1307, *Procedures*.

The Board has 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.

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 with notice to: the Department of Land Conservation and Development (DLCD); property owners within a half mile of the subject property; the area’s active CPO; the Molalla Fire District; and the County’s Transportation Engineering Division and Onsite Wastewater Program. Notice of the application and its public hearings has also been published in the newspaper and on County websites.

Before the Board decided on this application, there were 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 Map and the property’s zoning designation 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 subject site is currently zoned EFU and is subject to Goal 3. The Applicant’s proposal would not change any allowed uses in the EFU zoning district within the county; rather it proposes to identify the subject property as forest land (a Goal 4 resource), rather than agricultural land (a Goal 3 resource).

Oregon Administrative Rules, Chapter 660, Division 33, which implements Goal 3 defines “agricultural land” as follows.

OAR 660-033-0020: (1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

As defined, agricultural lands are not required to contain only Class 1 through 4 soils, but land with other soil types may be included if it is suitable for farming or if it is adjacent to or intermingled with lands with Class 1 through 4 soils. The subject property contains Class 4 and Class 6 soils; areas with relative steep slopes, and the properties immediately surrounding it are forested, not used for agricultural production. For these and other reasons discussed in more detail in Section IV.C of this document, the Board finds that the subject site does not meet the definition of "agricultural land" under Goal 3 and, as such, is not required to be designated under Goal 3 for agricultural use.

The relevant requirements of Statewide Planning Goal 3 are satisfied.

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 Applicant's proposal does not propose a change in any allowed land uses in its forest zoning districts (i.e., Ag/Forest and Timber Districts); rather it proposes to include the subject property within a forest zoning district. The proposal would change the subject site from agricultural to forest land, which would be subject to Goal 4. OAR Chapter 660, Division 6, which implements Goal 4, defines "forest lands" as follows.

OAR 660-006-0005: (7) "Forest lands" as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

(a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and

(b) Other forested lands that maintain soil, air, water and fish and wildlife resources.

The Rules further state that:

OAR 660-006-0010: (2) Where a plan amendment is proposed:

(a) Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service... Where NRCS data are not available or are shown to be inaccurate, other site productivity data may be used to identify forest land, in the following order of priority:

(A) Oregon Department of Revenue western Oregon site class maps;

(B) USDA Forest Service plant association guides; or

(C) Other information determined by the State Forester to be of comparable quality.

As noted previously and discussed in more in the Section IV.C of this document, the subject property contains soils that are considered “low value” for agricultural purposes, but have relatively high wood production capabilities, with ratings of 138 and 145 cubic feet/acre/year. These ratings are based on soil types and were established for Clackamas County based on information provided by the Oregon Department of Forestry.

In addition, the subject site and surrounding properties are forested, with a large commercial forest operation located on the adjacent parcels to the east. As such, the Board finds that the subject site better meets the definition of “forest lands” than the current designation of “agriculture” and, therefore, it is appropriate for this land to be designated as “forest land” under Goal 4.

The relevant requirements of Statewide Planning Goal 4 are satisfied.

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. The application does not propose to reduce or otherwise modify the boundaries of any open space area.

The Board finds that there are no inventoried riparian corridors, wilderness areas, mineral or aggregate resources, energy sources, cultural areas, or historic resources on the subject property.

The Applicant states that there are two streams on the property – one seasonal and one year-round – and these water features are identified as riverine wetlands in the inventory provided by the OR Department of State Lands (DSL). DSL was notified of the proposal and provided comments in which no concerns were identified and it was noted that the proposed future development appears outside of any wetlands or waters (see Exhibit 3).

In addition, approval of this application would not itself authorize any development. Any future development of the subject property would have to comply with any applicable natural resource,

including wetland, protection regulations. The submitted application materials do not indicate an intent to develop on or near any stream or wetland area.

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.

Any potential future development of the subject property under the proposed TBR zoning would be evaluated for consistency with the County’s existing regulations protecting air, water, and land resources quality. The need for any specific stormwater management system improvements will be evaluated during the development process required ahead of any actual development of the subject property.

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.

The subject property is also not in a mapped flood hazard area and has no mapped mass-movement or soil hazard areas, but may have slopes that exceed 20% on some portions of the property. Again, approval of this application would not itself authorize any development. The submitted application materials do not indicate an intent to develop on any of the steep slope areas in the future; however, any future development of the subject property would have to comply with any applicable natural hazard protection regulations, including steep slope reviews.

The relevant requirements of Statewide Planning Goal 7 are satisfied.

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) and do not require or restrict planning for industrial or other employment uses outside UGBs. The subject property is located outside of any UGB.

Statewide Planning Goal 9 is not applicable.

GOAL 10 – HOUSING

The purpose of Goal 10 is to meet housing needs. Goal 10 is implemented by OAR Chapter 660, Divisions 7 and 8, which only apply to areas inside UGBs. The subject property is located outside of any UGB.

Statewide Planning Goal 10 is not applicable.

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. Rules 60 and 65 of that division regulate the provision and extension of sewer and water service to rural lands, respectively.

The subject property is not located within public sewer or water service districts, and the Applicant does not propose to extend sewer or water services to the subject property. No changes to adopted facilities plans or implementing regulations are proposed in this application.

The relevant requirements 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 analysis (TA) memorandum, prepared by a licensed engineering firm, Lancaster Mobley, and dated May 6, 2022. The submitted TA addresses TPR requirements and includes a comparison of the reasonable worst-case traffic impacts caused by potential development under the property’s current EFU zoning to the reasonable worst-case traffic impacts of future development under the proposed TBR zoning. Key findings from the TA include:

- *The subject site is approximately 14.87 acres in a rural area with relatively rough terrain. Due to these geographical and topographical features, a majority of the non-farm uses set out in ORS 215.283(2) are unreasonable for development on the site. As such, the TA found that for the purposes of the analysis the site, under the EFU zoning, is considered generally undevelopable and accordingly is projected to generate a nominal number of trips.*

- Under the proposed TBR or AG/F zoning, the TA found that the reasonable “worst-case” development scenario may include the construction of one single-family detached house.
- Under the existing EFU zoning, the subject site is expected to generate a nominal number of trips and *under the proposed TBR or AG/F zoning, the subject site could reasonable generate up to one morning peak hour trip, one evening peak hour trip, and ten average weekday trips.*
- The impacts of the Applicant’s proposal are too small to affect or alter the functional classification of any existing or planned transportation facility of to degrade the performance of any nearby transportation facility.
- *Accordingly, the Transportation Planning Rule and Clackamas County general approval criteria are satisfied and no mitigation is necessary or recommended in conjunction with the proposed zone change.*

Notice of this application, including its TA, was provided to the County’s Transportation Engineering (TE) Division. TE staff has indicated via email (included in the record) that they concur with the analysis and conclusions found in the TA. As such, the Board finds the proposal consistent with the requirements of the TPR.

The relevant requirements of Statewide Planning Goal 12 are 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.

Statewide Planning Goal 13 is not applicable.

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 outside of a UGB. The application does not propose to expand or modify any UGB, permit urban land uses outside of a UGB, or rezone any rural lands to urban or urbanizable zoning district. The subject property is not located in an urban or rural reserve.

Statewide Planning Goal 14 is not applicable.

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 more than 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. OAR Chapter 660, Division 18

This division of the OARs is intended to implement provisions of Oregon Revised Statutes (ORS) 197.610-197.625 related to comprehensive land use planning. The overall purpose of the division is to carry out the state policies outlined in ORS 197.010 requiring comprehensive land use planning by the County.

The division has requirements for notice of a proposed change to the County's Comprehensive Plan, which have been complied with in the processing of this application.

The requirements of OAR Chapter 660, Division 18 have been satisfied.

C. Clackamas County Comprehensive Plan

The County's Comprehensive Plan includes goals and policies that must be considered when evaluating a proposed change in Comprehensive Plan land use designation and implementing zoning district. The Board has reviewed each chapter of the Comprehensive Plan. In this section of the report, the Board provides written findings as to how the Applicant's proposal is consistent with 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 property owners within ½ mile 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.

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 natural resources and energy.

This Chapter contains eight (8) 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.

The subject property does not contain any distinctive resource areas, natural hazards, or mineral/aggregate resources.

As discussed previously, the subject property does contains a wetland identified in the Department of State Lands (DSL) Wetland Inventory and therefore the following policy in Chapter 3 is applicable to the subject proposal.

Policy 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).

Policy 3.F.1 was included in the acknowledged Comprehensive Plan in order to comply with Statewide Planning Goal 5, for wetland resources. Outside of the Urban Growth Boundary (except in the Mt. Hood area) the federal wetland inventory is so general (just based on aerial fly overs) that it has not been possible to determine the exact location, quality, or quantity of wetlands. The County has not had the resources in order to develop more in depth or County specific wetland mapping. As such, policy 3.F.1 was adopted so that the County would review significant developments- including zone changes- to assure consistency with Goal 5 for wetland resources.

Because the DSL Statewide Wetland Inventory identified wetlands on site, notice the proposed Comp Plan/zone change was sent to DSL for their review and comment. DSL staff responded with an advisory document (Exhibit 3) indicating that no wetlands impacts were anticipated as part of the proposed Comprehensive Plan and zone change or subsequent possible development of one dwelling. DSL notes, *the proposed...dwelling appears outside of any wetland or waters. There is an existing gravel road servicing the location. Best Management Practices for erosion and sediment control are recommended due to the multiple sides of the site surrounded by streams.*

Any future on site building permit would be noticed to DSL and any proposed removal or fill of the wetlands exceeding 50 cubic yards would require a permit from the state.

As such, the Board finds is reasonable to conclude that the proposed Comprehensive Plan and zone change would not result in the disturbance of natural wetlands (marshes, swamps, bogs) and therefore the proposal is consistent with the Policy 3.F.1 of the Comprehensive Plan.

This application is consistent with Chapter 3.

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. Only the Land Use Policies for the each existing and proposed Land Use Plan designation would be applicable to the proposal and those are addressed below.

The subject property is currently designated Agriculture on the Comprehensive Plan Map. The proposed change to a Forest designation requires consideration of both the Agriculture and Forest policies in Chapter 4 of the Plan.

Chapter 4 defines identifies agriculture and forest lands as follows:

Agriculture

Agriculture areas are those of predominantly Class I through IV soils as identified by the United States Natural Resources Conservation Service or as identified in more detailed data; and other lands that are suitable for farm use due to soil fertility, suitability for grazing, climatic conditions, existing or future potential for irrigation, land use patterns, or accepted farming practices or are necessary to permit farming practices to be undertaken on adjacent or nearby lands.

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use

Chapter 4 includes the following policies that guide the designation of lands as Agriculture or Forest in the county (emphasis added).

Policy 4.NN.1 The following areas shall be designated **Agriculture:**

- 4.NN.1.1 Areas with predominantly Class I through IV agricultural soil as defined by the United States Natural Resources Conservation Service or identified as agricultural soil by more detailed data;*
- 4.NN.1.2 Areas generally in parcels of 20 acres or larger;*
- 4.NN.1.3 Areas primarily in agricultural use;*
- 4.NN.1.4 Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;*
- 4.NN.1.5 Other areas in soil classes different from NRCS I through IV when the land is suitable for farm use as defined in Oregon Revised Statutes 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farm practices.*

Policy 4.OO.1 The following areas shall be designated **Forest:**

- 4.OO.1.1 Lands suitable for forest use;*

4.OO.1.2 Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

4.OO.1.3 Areas generally in forest uses;

4.OO.1.4 Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;

4.OO.1.5 Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

As noted previously, the subject site is currently forested and contains Class 4 and Class 6 soils, each covering roughly half the site. While these soils are considered “low-value” for agriculture, they have the capability to generate well over 85 cubic feet of timber per acre per year. Based on the mapped soils, the site is capable of generating 135 to 148 cubic feet of wood production per acre per year.

Based on aerial photography, the site does not appear to have been in farm production in at least the last 30 years and has, in fact, been largely forested during that entire period. The Applicant states that the majority of the parcel is currently in timber production and natural forest and notes that a portion of this site was logged in 2018 and a portion of the adjacent land owned by Port Blakely Timber Company was logged in 2021. It is clear that the site and surrounding areas are “suitable” for forest use and “capable” of timber production, as identified in Policies 4.OO.1.1 through 3.

In addition, the site contains two streams/wetland areas; some steeply-sloped areas; and has what has been described as “relatively rough terrain”. These areas are more suited for a Forest designation than agricultural production and more closely meet Policy 4.OO.1.4.

Within the Forest Plan designation, there are two implementing zoning districts: Timber (TBR) and Ag/Forest (AGF). Plan policy 4.OO.11 identifies the criteria for the application of each of these zoning districts.

Policy 4.OO.11 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

Regarding Policy 4.OO.11, the Board finds that the area is predominantly in forest use and the TBR zoning district should be applied to the subject property for the following reasons:

- Although this policy does not define or specify the area to be considered, it reasonable to conclude that it can apply to just the subject site. Evidence demonstrates that this site has been forested, not farmed or even partially farmed, over at least the last three decades.
- The subject property is forested and properties immediately adjacent to the east, north and west are also forested and include a large commercial timber operation to the east.
- While agricultural production is evident on a number of properties to the west of the subject site, those sites are currently zoned EFU and are not immediately adjacent to the subject.

As such, the Board finds the subject site is consistent with the Plan policies for the Forest (F) Plan designation and Timber (TBR) District zoning designation and that **this application is consistent with Chapter 4.**

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

This Chapter 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 was required to submit a traffic study to comply 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.

The Applicant submitted a Transportation Impact Analysis (TA), completed by Lancaster Mobley and dated May 6, 2022, which was completed to assess this proposal's compliance with the TPR and ZDO Sections 1202.03(C) and (D). Based on the analysis and conclusions found in this TA, Lancaster Mobley found that *the Transportation Planning Rule and Clackamas County general approval criteria are satisfied and no mitigation is necessary or recommended.*

Notice of this application, including its TA, was provided to the County's Transportation Engineering (TE) Division; TE staff has indicated via email (included in the record) that they concur with the analysis and conclusions for the TA. As such, the proposal is consistent with the requirements of the TPR.

This application is 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, DLCD and the Hamlet of Mulino, 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/zone change and demonstrates compliance with this policy.

This policy is met; this application is consistent with Chapter 11.

D. Clackamas County Zoning and Development Ordinance (ZDO)

The Board has reviewed the relevant Sections of the ZDO in conjunction with this proposal 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 July 22, 2022. The application was deemed complete on August 18, 2022. As such, the 150-day deadline established by state law for processing this application is January 15, 2022.

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 IV.C of this document (pages 13 to 17, above). Based on those findings and findings provided by the applicant, the Board finds that the proposed zone change is 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.*

The subject property is not located in a public sanitary sewer district and onsite septic systems would be required for new development requiring sewage disposal. The subject property is not located in a public water district and onsite wells would be required for new development.

The proposed zone change can be found compliant 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 TA, which was completed by a licensed engineer, finds that the County’s existing and planned transportation system is adequate to serve the proposed zone change; no safety mitigation measures are recommended. The County’s Transportation Engineering (TE) Division has reviewed the TA and concurs with its findings.

The proposed zone change can be found compliant 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 TA concludes, and TE staff agrees, that the incremental increase in trips will not adversely affect the safety of the transportation system: “... *the proposed zone change is projected to generate a net increase of one morning peak hour, one evening peak hour, and 10 daily trips. Per the OHP [Oregon Highway Plan], this level of trip generation may be considered a “small increase” in traffic that will not cause further degradation of the nearby transportation facilities. Therefore the proposed zone change is expected to have minimal impact on the operability and safety of the surrounding system.*”

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