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September 18, 2025

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

**Adoption of a Previously Approved Comprehensive Plan
Map Amendment and Zone Change in File Nos. Z0109-25 and Z0110-25.
No County General Funds are involved.**

Previous Board Action/Review	Land Use Hearing - August 5, 2025		
Performance Clackamas	1. Public trust in good government		
Counsel Review	Yes	Procurement Review	No
Contact Person	Caleb Huegel	Contact Phone	503-655-8362

EXECUTIVE SUMMARY: File Nos. Z0109-25 and Z0110-25 include a Comprehensive Plan map amendment from Rural (R) to Rural Commercial (RC), with a corresponding zone change from Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Commercial (RC), for an approximately 2.06-acre property located at 23000 SE Eagle Creek Road, described as T2S, R4E, Section 31A, Tax Lot 02804, W.M.

A public hearing was held before the Planning Commission on July 14, 2025, at which the Commission voted 9-0 to recommend approval of the application as proposed.

A public hearing was held before the Board of County Commissioners on August 5, 2025, at which the Board voted 4-0 to approve the application subject to conditions recommended by staff and directed staff to draft an order and findings consistent with its decision.

An order implementing the Board's decision is attached, and findings are attached to the order.

RECOMMENDATION: Staff recommends that the Board adopt the attached order and the findings attached thereto.

Respectfully submitted,

Caleb Huegel
Assistant County Counsel

ATTACHMENTS:
Board Order with Exhibits

For Filing Use Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of File Nos. Z0109-25 and
Z0110-25, an Application by Mark Wright for
a Comprehensive Plan Map Amendment and
Zone Change for Property Described as T2S,
R4E, Section 31A, Tax Lot 02804, W.M.



Board Order No.

Page 1 of 1

Whereas, Mark Wright made an application for a Comprehensive Plan map amendment from Rural (R) to Rural Commercial (RC), with a corresponding zone change from Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Commercial (RC), for an approximately 2.06-acre property located at 23000 SE Eagle Creek Road, described as T2S, R4E, Section 31A, Tax Lot 02804, W.M., and shown on Exhibit A, attached hereto and incorporated herein by this reference; and

Whereas, after appropriate notice, a public hearing was held before the Planning Commission on July 14, 2025, at which testimony and evidence were presented and at which the Commission voted 9-0 to recommend approval of the application as proposed; and

Whereas, after appropriate notice, a public hearing was held before the Board of County Commissioners on August 5, 2025, at which testimony and evidence were presented and at which the Board voted 4-0 to approve the application subject to conditions recommended by staff; and

Whereas, the application, subject to the conditions recommended by staff, complies with the applicable state and county criteria;

NOW, THEREFORE, the Clackamas County Board of Commissioners does hereby order as follows:

Section 1: The requested Comprehensive Plan map amendment and zone change are approved subject to the conditions identified in Exhibit B, attached hereto and incorporated herein by this reference.

Section 2: The Board adopts the findings shown in Exhibit B.

DATED this 18th day of September 2025.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Exhibit B
Findings for File Nos. Z0109-25 and Z0110-25:
Comprehensive Plan Map Amendment and Zone Change

SECTION I: GENERAL INFORMATION

PLANNING FILE NOS.: Z0109-25 and Z0110-25

PROPOSAL: A Comprehensive Plan map amendment to change the land use plan designation for the subject property from Rural (R) to Rural Commercial (RC), with a corresponding zone change from Rural Residential Farm Forest 5-Acre (RRFF-5) to Rural Commercial (RC). No development is proposed with this application.

LOCATION: 23000 SE Eagle Creek Road, Eagle Creek, OR; on the east side of SE Eagle Creek Road, approximately 500 feet southeast of Highway 211.

T2S, R4E, Section 31A, Tax Lot 02804

APPLICANT(S): Mark Wright

OWNER(S): Eagle Creek Road LLC

SUBJECT PROPERTY AREA: Approximately 2.06 acres

CURRENT ZONING: Rural Residential Farm Forest 5-Acre (RRFF-5)

COMPREHENSIVE PLAN DESIGNATION: Rural (R)

COMMUNITY PLANNING ORGANIZATION: Eagle Creek-Barton CPO, Bret Parries,
eaglecreekcpo@gmail.com

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

SECTION II: CONCLUSION AND CONDITIONS OF APPROVAL

The Board of County Commissioners (the "Board") finds that this application satisfies all applicable state and county criteria to change the Comprehensive Plan designation for the subject property from R to RC and to rezone the property from RRFF-5 to RC. The Board **APPROVES** the application, subject to the following conditions:

1. Clackamas County Comprehensive Plan Map 4-7a, *Non-Urban Area Land Use Plan*, and all other maps of the Comprehensive Plan that include the subject property shall be amended to show the subject property as having a land use designation of RC.
2. The Clackamas County *Non-Urban Area Zoning Map* shall be amended to show the subject property as being in the RC zoning district.

SECTION III: OVERVIEW AND BACKGROUND

The subject property is located on the east side of SE Eagle Creek Road, approximately 500 feet southeast of the intersection of SE Eagle Creek Road and Highway 211 in the Eagle Creek area. The subject property consists of one tax lot which is approximately 2.06 acres in size, is generally rectangular, and has approximately 540 feet of frontage on SE Eagle Creek Road. The site takes direct access off SE Eagle Creek Road via a single driveway located near the southern boundary of the site.

The subject property is relatively flat, is outside of a mapped flood hazard area, and has no county-regulated mass-movement or soil hazard areas, stream conservation areas, mapped wetlands, or historic landmarks.

Per ZDO Section 316, the minimum lot size in the RRFF-5 zoning district is five acres. Under its current zoning, the subject site could be developed with one single-family dwelling but could not be partitioned or divided. The subject site is not currently developed with a dwelling; however, it does contain a gravel-surfaced lot and several structures.

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

- An approximately 4,800-square-foot office building with 6 RV garage bays;
- Eleven "container" storage buildings; and
- A relatively large amount of graveled surface for parking and vehicle circulation.

The site contains no visible trees and minimal landscaping. Development on the site is currently served by a well and septic system.

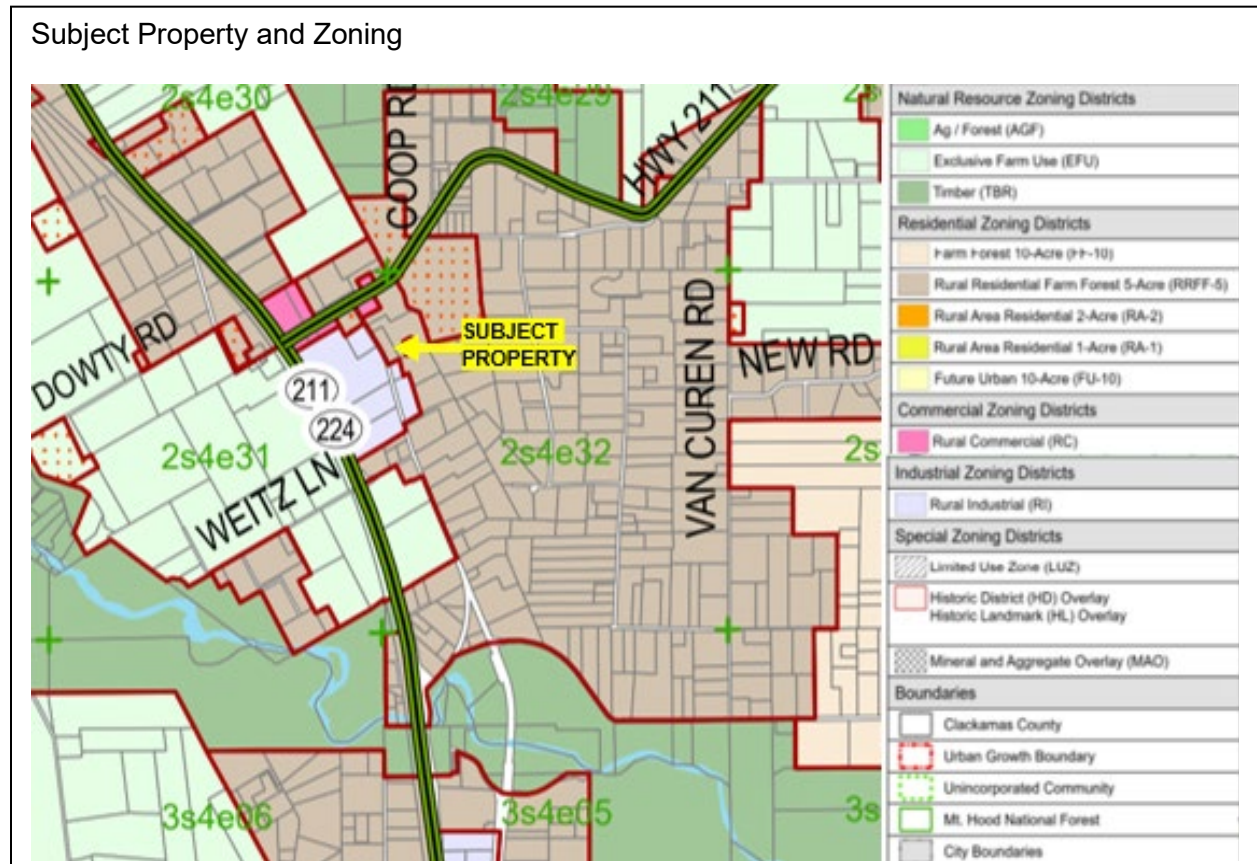
The subject property is located in an area characterized by a mix of rural residential, commercial, and industrial uses. Properties to the north, south, and east are used for commercial and industrial uses. Uses in the immediate vicinity include a foundry operation, feed and hardware store, the Philip Foster Farm living history facility, a private airport, a private gun club shooting range, a gas station/convenience store, a cemetery, and an excavation company office and vehicle and equipment maintenance and storage facility.

The zoning of properties in the vicinity of the subject site is also varied.

- Properties to the north and east are primarily zoned RRFF-5, three of which have a Historic Landmark (HL) overlay.
- A property approximately 250 feet northeast of the subject property and several others nearby along Highway 211 are zoned RC.
- Properties directly south and west (across SE Eagle Creek Road) are zoned Rural Industrial (RI).
- Further to the west and southwest is agricultural land zoned Exclusive Farm Use (EFU).

The current RRFF-5 zoning classification was adopted and applied to the subject property on June 28, 1976. Prior to that date, the subject property was not zoned but was subject to the Unzoned Area Development Permit (UADP) requirements adopted on July 7, 1975. Prior to that date, the subject property was not subject to restrictive zoning regulations.

Subject Property and Zoning



Subject Property and Vicinity (2023 Aerial Photo)



Source: Clackamas County GIS, PlanMap

Land Use History: Based on the subject property's permitting history, the site has been occupied by a number of different uses in the past, including a propane storage and service business, semi-truck/trailer storage, sales of wood stove pellets, and, most recently, an RV and boat storage, service, and repair facility with limited sales of parts and accessories.

None of those uses is allowed under the property's RRFF-5 zoning, but they were all permitted on the site because it was determined that the site had a lawfully established nonconforming use. Nonconforming uses are structures on or uses of property that were lawfully established—either because they received land use approval or were allowed by right at the time of establishment—but that are now prohibited due to a change in the zoning regulations that apply to the property. Such uses are allowed to continue to operate and may be altered/changed in some circumstances as long as they have not been discontinued for a period of time.

The nonconforming use determinations and alterations for the subject property over the last several decades are summarized below.¹

Z0190-18: Alteration of a Nonconforming Use. This file permitted construction of four new buildings ranging in size from 7200 square feet to 10,720 square feet and a total area of 37,680 square feet for RV and boat storage, modifying the prior approval for 120 storage spaces to 80 spaces and replacing the existing outdoor storage.

Z0555-10: Alteration of a Nonconforming Use. This approval was limited to the following uses:

- a. General mini-storage type usage, as described in the application, including the construction of a 20-foot-by-150-foot structure for mini-storage bays. Storage bays could be used for storage of materials, products, vehicles, etc. used by other businesses needing additional storage space, but not for the actual conduct of other businesses, e.g., manufacturing, service commercial, retail, or light industrial use.
- b. Use of the site for the parking/storage of up to 10 semi-trucks and trailers, provided such storage did not impede required drive aisles/fire lanes.
- c. The uses and structures approved under three previous nonconforming use alterations (File Nos. Z0761-04-E, Z0494-05-E, and Z0618-08-E).

Z0618-08: Alteration of a Nonconforming Use. This file permitted use of up to three enclosed bays for RV services, including repair and the sale and installation of accessories and parts, and permitted use of one outdoor storage bay for the sale and storage of wood stove pellets.

Z0993-05 and Z0494-04: Alteration of a nonconforming use and design review approval for addition(s) to the existing RV storage facility to include a 50-foot-by-100-foot building for office use and RV storage and a 60-foot-by-365-foot open-sided, covered building for RV storage. The smaller building was also permitted to include a single-family dwelling unit, although it does not appear to have been used as such.

Z0761-04: Alteration of a Nonconforming Use. This file authorized an alteration to an existing nonconforming use to allow for an RV and boat storage facility. The file verified the nonconforming use status of a propane storage and sales use that was established some time in 1974, according to county tax and assessment department appraisal records. The original occupant was Doxel L. P. Gas, and the use consisted of a large bulk propane tank, storage of residential and commercial propane tanks, propane delivery trucks, miscellaneous related equipment, and a small storage shed.

¹ The Board is making no formal determination with this application about whether this property has retained its nonconforming use status since the last approved alteration.

Notice: This application has been processed consistently with the legal noticing requirements in Section 1307, *Procedures*, of the ZDO and with state noticing requirements. Specifically, the County has provided notice to interested agencies, local governments, and property owners within 2,640 feet of the subject property. Notification to property owners, public notices, and hearings ensure an opportunity for citizens to participate in the land use process.

The only comments received on this application were from the Oregon Department of Transportation (ODOT) and the County's Engineering staff regarding the applicant's traffic study.

ODOT's comments noted that the application requires a traffic analysis to address compliance with the Transportation Planning Rule (TPR) but provided no assessment of the traffic study the applicant provided. County Engineering staff stated that they had reviewed the traffic study and supplemental safety analysis and took no exception to the findings.

The local Community Planning Organization, the Eagle Creek-Barton CPO, has not provided any comments.

Public Hearings: Two public hearings were held to consider the application.

- July 14, 2025: A public hearing was held before the Planning Commission. The applicant's team was the only party to provide testimony. The Commission voted 9-0 to recommend approval of the application as proposed.
- August 5, 2025: A public hearing was held before the Board. Again, the applicant's team was the only party to provide testimony. The Board voted 4-0 to approve the application subject to conditions recommended by staff.

SECTION IV: FINDINGS

This application is subject to the following provisions:

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

These provisions, and the applicant's preliminary findings, have been reviewed. Compliance with the applicable regulations is discussed below. ZDO Sections 202 and 1307 provide only definitions and procedural requirements that do not warrant separate written findings.

A. Statewide Planning Goals

GOAL 1 – CITIZEN INVOLVEMENT

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 proposes only to amend the County's Comprehensive Plan maps and zoning map. Even if approved, the County's existing, state-acknowledged citizen involvement program would not change.

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

Before the Board rendered a decision on this application, there were two advertised 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.

This amendment to the County's Comprehensive Plan maps and zoning map would not change the County's land use planning process. Even with this amendment, the County will continue to have a comprehensive plan and consistent implementing regulations. These findings outline how this amendment is consistent with applicable policies of the County's acknowledged Comprehensive Plan. The applicant does not request an exception to any statewide planning goal, nor is an exception required for this amendment.

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 EFU.

The County has already satisfied these requirements. This application does not propose to change the Comprehensive Plan or zoning designation of any farmland, nor does it propose to change the uses allowed in the EFU zone. The subject property is currently zoned for residential development, not agriculture.

Statewide Planning Goal 3 is not applicable.

GOAL 4 – FOREST LANDS

Goal 4 requires the County to identify forest lands, designate it as such on its comprehensive plan maps, and zone it consistently with state rules.

The County has already satisfied these requirements. This application does not propose to change the Comprehensive Plan or zoning designation of any forestland, nor does it

propose to change the uses allowed in the County's forest zones (i.e., Ag/Forest and Timber). The subject property is currently zoned for residential development, not forest uses.

Statewide Planning Goal 4 is not applicable.

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

Goal 5 requires the County to adopt programs that will protect an area's natural resources and 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 it encourages the maintenance of inventories of historic resources.

This application would not change the County's acknowledged inventories or programs for the protection of such resources, nor would it modify the mapping of any protected resource. The subject property does contain any areas of identified Goal 5 resources.

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.

This application would not change the County's acknowledged Comprehensive Plan policies or implementing regulations regarding Goal 6 resources, nor would it modify the mapping of any protected resource.

The relevant requirements of Statewide Planning Goal 6 are satisfied.

GOAL 7 – AREAS SUBJECT TO NATURAL HAZARDS

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

This application would not change the County's acknowledged Comprehensive Plan policies or implementing regulations regarding natural disasters and hazards, nor would it modify the mapping of any hazard. As noted previously, the subject site is flat and does contain any areas with identified Goal 7 hazards.

Statewide Planning Goal 7 is not applicable.

GOAL 8 – RECREATIONAL NEEDS

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

This application would not change the County's acknowledged Comprehensive Plan policies or implementing regulations regarding recreational needs, nor would it modify the mapping of any 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 OAR chapter 660, division 9. Pursuant to OAR 660-009-0010(1), the requirements of division 9 apply only within urban growth boundaries (UGBs). The subject property is not within a UGB. Therefore, Goal 9 is not applicable to this amendment.

Nonetheless, this amendment would further Goal 9 generally by providing economic support and employment opportunities for the rural area of the county because it would allow for more diverse types of commercial businesses to locate on the subject site than could do so through a continuation of the nonconforming use status.

This application is consistent with Statewide Planning Goal 9.

GOAL 10 – HOUSING

The purpose of Goal 10 is to meet housing needs.

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

Nonetheless, the potential loss of one dwelling is negligible in relation to the county's housing stock, particularly in light of the numerous recent efforts by the County to allow for more housing units within the Portland Metro UGB—a more appropriate place for housing because of better access to urban goods and services and transportation options.

This application is consistent with Statewide Planning Goal 10.

GOAL 11 – PUBLIC FACILITIES AND SERVICES

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

This application would not change any adopted facilities plans or implementing regulations. The subject site is currently not served by public water or public sewer and, because it is outside of a UGB, it will not be served by these public facilities. Any future development on the site would continue to be served by the on-site water and sewage disposal facilities.

The relevant portions of Statewide Planning Goal 11 are satisfied.

GOAL 12 – TRANSPORTATION

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

Goal 12 is implemented by OAR chapter 660, division 12, commonly referred to as the Transportation Planning Rule (TPR). When an amendment to the County's Comprehensive Plan maps or zoning map is proposed, OAR 660-012-0060 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 study and supplemental information, prepared by a licensed engineering firm, Clemow Associates, LLC, and dated March 6, 2025. The traffic study addresses TPR requirements and includes a comparison of the reasonable worst-case traffic impacts caused by potential development of the subject property under the property's current RRFF-5 zoning to the reasonable worst-case traffic impacts of future development under the proposed RC zoning. Key findings from the traffic study include:

- "Proposed land use actions include a Type III land use application for a Comprehensive Plan map amendment, designation change, and a corresponding zone change from RRFF-5 to RC. The proposed land use actions do not include a specific development application. As such, the following scope of work identifies reasonable worst-case development scenarios and the development area of influence, including intersections and accesses receiving 50 or more development trips and having a 10% or greater trip volume increase."*
- "[T]he [Oregon Highway Plan] trip generation threshold for plan amendments requiring a TPR analysis is an increase of 400 or more average daily trips on state facilities."*
- "[R]easonable worst-case development in the proposed RC zone generates an additional 247 daily, 23 AM peak hour, and 33 PM peak hour trips over development in the RRFF-5 zone."*
- "Overall, the proposed Comprehensive Plan map amendment and corresponding zone change will result in a small increase in traffic and will not significantly affect an existing or planned transportation facility. As such, it can be found that the TPR criteria outlined in OAR 660-012-0060 are satisfied without the need for additional transportation analysis."*

County Engineering staff have reviewed the traffic study and supplemental analysis and provided comments, noting that staff take "no exception to the findings as presented. With the supplemental safety analysis, the documentation provided by the applicant adequately addresses the relevant safety and transportation criteria set forth in ZDO 1202.03(C) and (D) and OAR 660-012-0060." ODOT was notified of this application but did not provide comments specific to this traffic analysis.

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.

This application would not change the County's acknowledged Comprehensive Plan policies or implementing regulations regarding energy conservation.

The relevant requirements of Statewide Planning Goal 13 are satisfied.

GOAL 14 – URBANIZATION

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

The subject property is not located within a UGB. However, per OAR chapter 660, division 14, Goal 14 applies to rural lands in that those lands should be available only for rural uses. If an urban use is proposed, then an exception to Goal 14 must be obtained.

In determining whether a Goal 14 exception is required, DLCD v. Klamath County, 38 Or LUBA 769 (2000), makes it clear that findings need to explain why the proposed use is "rural" and not "urban." Some examples of factors that may be used for such a determination are:

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

Although the applicant provided very limited findings related to Goal 14, the Board concludes that the proposed zone change would retain the property in "rural" uses, and that this application does not require a Goal 14 exception, for the following reasons:

- The uses allowed by Section 513, Rural Commercial, of the ZDO have been acknowledged and found to be appropriate in type and scale for the rural area. In addition, there is a limitation on the size of structures for each commercial use within the RC zone. Per ZDO Section 513, the maximum building floor space per commercial use is 3,000 square feet, but a lawfully established commercial use that existed in 2001 may be expanded by 25%. In limiting the size of commercial use in this manner, the types of commercial uses that can and will locate within the RC zoning district are more limited in scale to what is appropriate for the rural area. If this application is approved, any development on the subject property would be required to comply with the RC standards.*

- *As noted in the application, “the site does not require extension of, or support from any public services considered urban. The existing development of the site does not create an urban enclave or precipitate urban development on surrounding properties.” Indeed, the subject property is located approximately three miles from the City of Estacada’s UGB and approximately five miles from the Portland Metro UGB, which are the closest “urban” areas with urban services. Commercial uses on the subject property would not have access to or need urban services.*
- *Although there is there is no specific use that would be approved through this application, the applicant has noted that the likely use, if the Comprehensive Plan map amendment and zone change is approved, would generally consist of a “commercial business that maintains fill equipment,” presumably a service commercial use for the storage, rental, purchase, or use of said equipment throughout the area. This type of use is similar to what is currently occurring on the property, with no need for public facilities and no discernable impact on either of the closest UGBs. As such, it can be considered a “rural” use.*

The relevant requirements of Statewide Planning Goal 14 are satisfied.

GOAL 15 – WILLAMETTE RIVER GREENWAY

The purpose of Goal 15 is to “protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The subject property is approximately 12.5 miles from the Willamette River and is not located in the Willamette River Greenway. The application would not change the County’s acknowledged Comprehensive Plan policies or implementing regulations regarding the Willamette River Greenway.

Statewide Planning Goal 15 is not applicable.

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

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

B. Clackamas County Comprehensive Plan

The County’s Comprehensive Plan includes goals and policies that must be considered when evaluating a proposed Comprehensive Plan map amendment.

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:

- 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 Comprehensive Plan and ZDO include acknowledged procedures for citizen involvement. This application has been processed consistently with those procedures. Specifically, the County has provided notice to interested agencies, local governments, and nearby property owners, consistent with state law and ZDO Section 1307, which implements the public notice policies of Chapter 2. Notice to property owners, public notices, and hearings ensure an opportunity for citizens to participate in the land use process.

This application is consistent with Chapter 2.

Chapter 4, Land Use

This chapter 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 sections addressing (1) Urbanization, (2) Urban Growth Concepts, and (3) land use policies for each designation. The land use policies for the proposed designation are addressed below.

Rural Commercial

Rural Commercial lands “are those that are outside urban growth boundaries and that are suitable based on specific factors for commercial development on a rural scale.” The following policies apply to Rural Commercial lands.

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

The subject property is located in a non-urban area (outside a UGB). The commercial uses that are allowed within an RC area, per Section 513 of the ZDO, are those that have been determined appropriate for rural areas and commensurate with rural development. If this application is approved, any future uses and development on the subject site would need to comply with the standards in ZDO Section 513.

This policy is met.

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

If this application is approved, both the Comprehensive Plan designation and zoning designation would be changed to RC.

This policy is met.

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

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

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

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

The subject property is not located within an Unincorporated Community and must therefore meet the first criterion: an historical commitment to commercial uses.

Historical Commitment

Based on the subject property's permitting history, the site has been used in the past for propane storage and service, semi-truck/trailer storage, wood stove pellets sales, and, most recently, RV and boat storage, service, and repair with limited parts and accessories sales.

The propane storage and sales use was established over 50 years ago, sometime in 1974. Since that date, use of the property for non-residential uses has been verified and altered through a number of alterations authorized from 2004 through 2018 (see discussion of File Nos. Z0190-18, Z0555-10, Z0618-08, Z0618-08, Z0993-05, Z0494-04, and Z0761-14 above). With each alteration of the nonconforming use, a determination had to be made that the use to be altered had not been discontinued on the property. Therefore, the property has been continually used and "committed" to the identified non-residential uses at least through 2018, and likely longer, given that several of the structures were established on the site after the 2018 approval.

It is not clear from the applicant's materials when or if the uses approved in 2018 have ceased operations on the site. However, the site remains physically developed with several commercial structures and is almost entirely graveled. Regardless of whether the use has been discontinued for the last few years, the clear use history and physical development of the subject property provides sufficient evidence to determine that the site does indeed have an "historical commitment" to non-residential uses.

Commercial Versus Industrial Uses

Because the property has contained a number of different non-residential uses in the past, a determination also needs to be made about whether these uses constitute a commitment to "commercial" rather than "industrial" uses. The applicant does not provide a clear argument as to what type of commitment the property has and refers to the site being developed with both industrial uses and commercial uses.

To determine whether the property's "commitment" is to commercial or industrial uses, the Board looks to how the ZDO classifies the various non-residential uses that have been permitted on the site:

- *Storage, maintenance, and repair of vehicles such as boats and RVs are consistently classified under "service commercial" uses in the ZDO, including Section 513, which allows the following outright (i.e., as "primary" uses) in the RC zone:*
 - **Services, Commercial—Maintenance and Repair** of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles
 - **Services, Commercial—Storage** of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles
 - **Services, Commercial—Mini-Storage/Self-Storage Facilities**
- *Retailing is clearly a commercial use, as it has broad outright allowances in both rural and urban commercial districts, including in the RC district. In the County's industrial districts, retailing is often limited to what is manufactured or produced on the site (RI district) and/or allowed on a limited basis (urban industrial districts).*
- *The original use that established the "commitment" on the property was propane storage and distribution. Without more complete information about the actual business, it is difficult to classify that use within the existing structure of the ZDO. It could be considered an industrial use, under "warehousing and distribution," or it could be considered "service commercial" and/or "retailing" or, most likely, some combination of industrial and commercial uses. Regardless of how this particular use would be classified, staff finds that the clear commitment to commercial uses since at least 2004, and likely prior, is sufficient to determine that the subject property has a commercial and not an industrial "commitment."*

Based on the extensive permitting history, which demonstrates the subject site has been used primarily with commercial uses since 1974, and the existing development on the site, there is sufficient evidence to conclude that this property has an historical commitment to commercial uses.

This policy is met.

The applicant further notes that, because the site is currently “developed for commercial purposes with a gravel lot, paving, and a commercial structure,” developing a single-family dwelling on the site, as would be allowed by its current zoning designation, would “require these developments to be removed or mitigated. The dwelling would not have a yard or garden or orchard areas without removal of the gravel from the site.” The Board concurs that the existing commercial development on the property effectively precludes the use of the property for residential uses allowed under the current RRFF-5 zoning and that a commercial zoning designation would be more appropriate.

This application is consistent with Chapter 4.

Chapter 5, Transportation

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

There is only one policy in this chapter applicable to this application:

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

The applicant’s traffic analysis, which was completed by a licensed engineer, finds that the proposed Comprehensive Plan map amendment and corresponding zone change will result in a small increase in traffic and will not significantly affect an existing or planned transportation facility. The study concludes that the TPR criteria outlined in OAR 660-012-0060 are satisfied. County Engineering staff concur with the findings from the traffic analysis.

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.

There is only one policy in this chapter applicable to this application:

- 11.A.1 Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.

Notice of this application has been provided to all appropriate agencies and parties, and advertised public hearings before the Planning Commission and the Board have provided an adequate opportunity for interagency coordination of this proposed Comprehensive Plan map amendment, demonstrating compliance with this policy.

This application is consistent with Chapter 11.

C. Zoning and Development Ordinance (ZDO)

Section 1202, *Zone Changes*, provides standards, criteria, and procedures under which a change to the County's zoning map may be approved.

Section 1202.02, Submittal Requirements

Section 1202.02 lists the information that must be included in a complete application for a zone change.

The application was initially submitted on March 18, 2025, and deemed incomplete. The applicant submitted additional materials on April 25, 2025, and the application was deemed complete on that date.

Section 1202.03, General Approval Criteria

Section 1202.03 states that a zone change may be allowed, after a hearing conducted pursuant to Section 1307, if the applicant provides evidence substantiating that the following criteria are met.

Subsection 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 provided above. Based on those findings, the proposed zone change is compliant with all relevant goals and policies of the Comprehensive Plan.

This application is consistent with Subsection 1202.03(A).

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

Development that could occur under the proposed RC zoning would not have access to or need public sewer or water service. The subject property is not located in a public sanitary sewer district, and an on-site waste disposal system would be required for development on the site. The subject property is not located in a public water district, and a private well would be required for development on the site. Evidence in the record demonstrates that these on-site facilities currently exist on the site and serve the existing commercial uses.

The applicant has provided a Preliminary Statement of Feasibility from the surface water management agency, attesting that the surface water management can be accommodated if the proposed zone change is approved.

This application is consistent with Subsection 1202.03(B).

Subsection 1202.03(C): The transportation system is adequate and will remain adequate with approval of the proposed zone change. For purposes 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.

The applicant's traffic analysis, which was completed by a licensed engineer, finds that the proposed Comprehensive Plan map amendment and corresponding zone change will result in a small increase in traffic and will not significantly affect an existing or planned transportation facility. The study concludes that the TPR criteria outlined in OAR 660-012-0060 are satisfied. County Engineering staff concur with the findings from the traffic analysis.

This application is consistent with Subsection 1202.03(C).

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

At the request of County Engineering staff, the applicant's traffic study included a "supplemental safety analysis" which includes consideration of crash data for SE Eagle Creek Road and the SE Eagle Creek Road/SE Weitz Road intersection, as well as a site distance evaluation along the property frontage and its current access point. Based on those considerations, the analysis finds that:

- *“Crash data materials find that there is one recorded crash on SE Eagle Creek Road in the study area and no recorded crashes at the SE Eagle Creek Road/SE Weitz Road intersection.”*
- *“A preliminary review of field conditions finds that sight distance for vehicles entering or exiting the subject property at the existing (or future) access to SE Eagle Creek Road is not restricted by horizontal or vertical roadway curvature and that Clackamas County sight distance requirements can be met.”*
- *“SE Eagle Creek Road is considered relatively safe, and the proposed land use actions are not anticipated to affect the crash rates. A preliminary review of field conditions finds that Clackamas County sight distance requirements are met at the existing access and can be met at a future access.”*

County Engineering staff have reviewed this supplemental safety analysis and concur with these findings.

This application is consistent with Subsection 1202.03(D).

Board Order Exhibit A

Z0109-25 & Z0110-25

Comprehensive Plan Map Amendment/Zone Change

Rural/Rural Residential Farm Forest 5-acre (R/RRFF-5) to Rural Commercial (RC/RC)

Taxlot 24E31A 02804

