



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: March 03, 2016
Jurisdiction: Clackamas County
Local file no.: Z0294-15-CP, Z0295-1
DLCD file no.: 005-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 03/02/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 42 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 005-15 {24961}
Received: 3/2/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Clackamas County

Local file no.: Z0294-15-CP & Z0295-15-ZAP

Date of adoption: 2/25/2016 Date sent: 3/2/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 8/17/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Martha L Fritzie

Phone: 503-742-4529

E-mail: mfritzie@clackamas.us

Street address: 150 Beaver Creek Rd

City: Oregon City

Zip: 97045-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from Agriculture to Rural Industrial 5 acres. A goal exception was required for this change. **GOAL 3**
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): T4S, R1E, Section 07, Tax Lot 800, W.M

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from EFU	to RI	Acres: 5
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): T4S, R1E, Section 07, Tax Lot 800, W.M

List affected state or federal agencies, local governments and special districts: ODOT Region 1, Aurora Fire District #63

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Order Exhibit A includes the Findings of Fact and Conclusion of Law. Order Exhibit B includes the map location of where the zone change is taking place.

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

In the Matter of a Comprehensive
Plan Amendment and Zone Map
Amendment from John Brosy/
Goby Walnut & Western Hardwoods,
on property described as T4S R1E
Section 07, Tax Lot 800



ORDER NO. 2016-14

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File Nos.: Z0294-15-CP and
Z0295-15-ZAP

WHEREAS this matter coming regularly before the Board of County Commissioners, and it appearing that John Brosy/ Goby Walnut & Western Hardwoods made an application for a Comprehensive Plan Amendment from Agriculture to Rural Industrial and a corresponding zoning map amendment from EFU (Exclusive Farm Use) to RI (Rural Industrial) on a portion of the property described as T4S R1E Section 07, Tax Lot 800, located on the south side of S. Highway 99E, approximately one mile southwest of Canby and approximately one mile northeast of Aurora, and more commonly referred to as 25408 S. Highway 99E, Aurora, Oregon 97002.

WHEREAS it further appearing that in order to change the Comprehensive Plan Map designation to any plan designation other than Agriculture, it is necessary to take an exception to Statewide Planning Goal 3 (Agriculture), under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4, and the applicant has proposed to do so under the "reasons" exception criteria.

WHEREAS it further appearing that after appropriate notice a public hearing was held before the Planning Commission on September 28, 2015, at which testimony and evidence was presented, and that, at this hearing, the Commission, by the vote of 7-0, recommended approval of this request, subject to the submission of additional evidence to address all the reasons exception criteria; and

WHEREAS it further appearing that after the September 28, 2015 Planning Commission hearing, the applicant provided the requested information related to the remaining goal exception criteria; and

WHEREAS it further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on October 28, 2015, at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by the vote of 5-0 to approve the application, with the Comprehensive Plan Amendment and Zone Map Amendment limited to that area identified in Order Exhibit B and limited to the uses identified in Order Exhibit A, which are attached to this order and incorporated herein by reference.

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

In the Matter of a Comprehensive
Plan Amendment and Zone Map
Amendment from John Brosy/
Goby Walnut & Western Hardwoods,
on property described as T4S R1E
Section 07, Tax Lot 800



ORDER NO. 2016-14

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File Nos.: Z0294-15-CP and
Z0295-15-ZAP

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

1. The applicant requests approval of a "reasons" exception to Statewide Planning Goal 3 (Agriculture), to allow for the uses identified in Order Exhibit A (Findings of Fact).
2. The applicant requests approval of a Comprehensive Plan Amendment from Agriculture to Rural Industrial and a corresponding zoning map amendment from EFU (Exclusive Farm Use) to RI (Rural Industrial) limited to that area identified in Order Exhibit B.
3. This Board adopts as its findings and conclusions the *Findings of Fact and Conclusions of Law* document attached hereto and incorporated herein as Order Exhibit A, which finds the application to be in compliance with the applicable criteria.

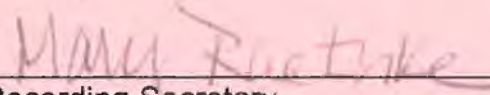
NOW THEREFORE, IT IS HEREBY ORDERED that the requested "reasons" exception to Statewide Planning Goal 3 and the requested Comprehensive Plan Amendment and Zone Map Amendment are hereby APPROVED, limited to that area identified in Order Exhibit B, and limited to the uses identified in Order Exhibit A, which are attached to this order and incorporated herein by reference.

DATED this 25th day of February, 2016

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

BOARD ORDER EXHIBIT A:

**FINDINGS OF FACT –
Clackamas County Planning File # Z0294-15 & Z0295-15
Comprehensive Plan and Zone Change Application
T4S, R1E, Section 07, Tax Lot 00800, W.M.**

SECTION 1. BACKGROUND

Subject Property and Requested Action

The following findings of fact are submitted for a Statewide Goal 3 Exception and County Comprehensive Plan and zoning designation change for approximately five acres of a 20-acre parcel at 25408 S. Highway 99E, in unincorporated Clackamas County between the cities of Canby and Aurora. The applicant request includes a plan map amendment and zone change from EFU, Exclusive Farm Use to RI, Rural Industrial for those five acres.

The subject property is located in unincorporated Clackamas County, on the south side of S. Highway 99E, approximately one mile southwest of Canby and approximately one mile northeast of Aurora. It contains 20.00 acres and consists of one taxlot, which is a single “legal lot of record.” The entire site is zoned exclusive farm use (EFU). Approximately 14.25 acres of the property appear to be unused farmland that may have been utilized in the past for grazing. The “upper” developed portion of the parcel (approximately five acres) is the subject to this application and contains approximately 9,530 square feet of industrial, commercial, and residential buildings surrounded by large areas of gravel and some asphalt. The developed portion of the site contains approximately 500 linear feet of frontage on S Highway 99E and is physically separated from the farmland portion by a steep, treed slope, creating a natural boundary.

The 2011 appraisal by RSP & Associates counted the 3,000 sq. ft. pre-engineered steel building with 16 to 18 ft. clear height and two grade level loading doors with concrete floor. The large building has two grade level loading doors. The existing building originally used as a house is 1,518 sq. ft., and an office building dating to 1969 totals 1,176 sq. ft. A detached office building totals 120 sq. ft. In the south part of this complex (and the lower farmland area), five additional outbuildings totaling 5,159 sq. ft. are modest shell space used primarily for storage. The buildings are functional for intended uses with no significant signs of deferred maintenance at the time of the 2011 fee appraisal. The subject property is currently bank-owned; all the buildings have now been vacant for more than five years and are showing varying signs of disrepair.

Prior uses of the property included welding; metal fabrication; light and heavy mechanic operations; and (incidental) resale of recreational vehicles, utility trailers, light trucks and utility vehicles. The property was most-recently occupied by the Top O’Hill RV Sales and

Service business that was operating legally under a nonconforming use status that was verified and altered/expanded in 1990 (Planning file #Z0432-90-E) and in 1996 (Planning file #Z1148-96-E). The use had aspects of both commercial and industrial usage, with a fairly large-scale RV repair business including a building built specifically for welding, plus the storage of large RV vehicles and RV trailers and specialty recreational trailers throughout the site.

The property's nonconforming use status was lost, sometime during or prior to 2011, when the RV business closed and the property was vacated. Pursuant to the county's Zoning & Development Ordinance (ZDO) Section 1206.03(A), if a nonconforming use is *discontinued for a period of more than 12 consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of the zoning district regulation applicable at the time of the proposed resumption.* A nonconforming use does not change the underlying zoning of a property and the subject's current Exclusive Farm Use (EFU) zoning would not permit the prior approved nonconforming use nor would it permit the uses proposed by the applicants.

The subject property is currently under contract for purchase; the purchaser, Goby Walnut & Western Hardwoods, is a specialty wood products business that sources unique hardwood tree trunk slabs from trees in urban areas that are salvage or hazard tree situations. The large trunks yield slabs that are sold for custom wood uses such as a wide range of furniture uses, musical instruments, flooring, gunstocks and other custom woodworking projects and applications.

Goby intends to "re-purpose" the extensive collection of existing buildings and paved and graveled yard surfaces on this site for some of its business operations including locating two (electric) sawmills and a large wood storage/drying area on the parcel. Goby's entire walnut wood inventory is currently salvage or hazard wood; however, along with the consolidation of many of the operations from multiple sites in the Portland area to this site, Goby will utilize the farmland on this property to cultivate walnut and other hardwood seedlings; particularly seedlings that are being developed as canker-resistant so as to help mitigate the massive losses of black walnuts all over the region to the walnut twig beetle and the thousand cankers disease they have brought to the region.

The processing and drying uses proposed by Goby Walnut & Western Hardwoods are not allowed under the current EFU zoning because the business utilizes wood/trees from throughout Oregon and Washington. The EFU zoning allows for the "primary processing of forest products" but only if the "forest products" are *timber grown upon a tract where the primary processing facility is located* (ZDO Section 401.05(B)(2)). The uses proposed by Goby Walnut & Western Hardwoods would be allowed under a Rural Industrial (RI) zoning; thus necessitating an application for a Comprehensive Plan designation and zone change and associated Exception to Statewide Planning Goal 3. The application was filed citing the "Reasons" exception criteria for the Goal Exception.

Because it is a "Reasons" exception, the uses allowed on site will necessarily be limited to only those that are approved in this application (per OAR 660-004-0018).

- Processing/milling of salvaged wood, including:
 - The installation of two (2) electric saw mills
 - The installation of, or conversion of an existing building into, a kiln (for drying wood)
 - An additional kiln, if needed, in the future
- Drying and storage of wood in large outdoor, fenced areas.
- A small administrative office

As previously mentioned, the balance of the 20 acre site will remain in EFU zoning and will be used to raise walnut and other hardwood seedlings.

County Procedures

Planning Commission Proceedings

The Planning Commission held a public hearing on the applicant’s proposal on September 28, 2015. The Planning Commission took testimony at the hearings; however, the only testimony provided was from the applicants.

The Planning Commission voted unanimously to recommend approval to the BCC for the Reasons Exception, Comprehensive Plan amendment and zone change; subject to the applicants’ providing additional information, including:

- An analysis of the Economic, Social, Environmental, and Energy (ESEE) consequences, as required by state law for the Reasons exception; and
- Noise level data and, if needed, a noise mitigation plan for the two sawmills proposed to be located on the site.

Board Proceedings

The Board of County Commissioners held a public hearing on the applicant’s proposal on October 28, 2015. The Board took testimony at this hearing but, again, the only parties testifying were the applicants.

At this hearing, the Board unanimously approved the goal exception and zone change for the area identified in Order Exhibit B.

Applicable Criteria

This application involves amendments to an acknowledged county Comprehensive Plan provisions and land use regulations, as well as a “Reasons” exception to Statewide Planning Goal 3. Under Oregon’s land use statutes and goals, this application must be found to comply with a number of standards and criteria, including the following:

State Statutes (ORSs) and Administrative Rules (OARs)

- OAR Chapter 660, Division 4- Interpretation of Goal 2 Exception Process:
- OAR 660-004-000 Purpose
- OAR 660-004-005 Definitions
- OAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals

OAR 660-004-0015 Inclusion as Part of the Plan
OAR 660-004-0018 Planning and Zoning Exception Areas
OAR 660-004-0020 Goal 2 Exception Requirements
OAR 660-004-0022 Reasons Necessary to Justify and Exception
OAR 660-004-0030 Notice and Adoption of an Exception

ORS 197.610 and 197.615 – Post-acknowledgment Amendments
ORS 197.732 - Goal Exception standards
ORS 197.763 – Notice procedures for quasi-judicial hearings

Statewide Planning Goals 1 through 19

OAR Chapter 660, Division 12 – Transportation Planning
OAR 660-012-0060 Plan and Land Use Regulation Amendments

County Comprehensive Plan Provisions

The following Clackamas County Comprehensive Plan provisions are implicated by this application:

- Chapter 2. Citizen Involvement
 - Citizen involvement policies
- Chapter 3. Natural Resources and Energy
 - Agriculture policies
- Chapter 4. Land Use
 - Rural Industrial policies
- Chapter 5. Transportation System Plan
- Chapter 11. The Planning Process

County Zoning & Development Ordinance Provisions

Section 1202. Zone Change

General Findings and Conclusions Related to the Application (Z0294-15-CP & Z0295-15-ZAP)

1. The Board finds that the County has followed the correct procedures in this matter by providing requisite notice to area landowners, DLCD, and other affected government agencies and by conducting multiple public hearings for the Application in accordance with the quasi-judicial procedures required by state and local law. Further, the Board finds that no one has raised any objection to the County's procedures in this matter or to the impartiality of any member of the Planning Commission or the Board.
2. As findings supporting approval of the Comprehensive Plan change and the rezoning Application (Z0294-14-CP and Z0295-14-Z), the Board hereby accepts, adopts, and incorporates within this Decision, in their entirety, the Findings of Fact presented in Section 2 below. The Findings of Fact are based on the Applicant's narrative and the Zone Change Application (including attachments) dated July 8, 2015; the Applicant's Supplement to Reasons Exception dated September 15, 2015; the Applicant's Response for Staff Report of 9/21/15, dated September 28, 2015; the Applicant's Attachment 9-

Sound Generation from Mill Saws, dated October 21, 2015; the Applicant's Exhibit 10-ESEE Analysis; the Applicant's testimony at the public hearings; and other testimony identified herein.

3. The Board finds that the record contains all evidence and argument needed to evaluate the Application for compliance with the relevant criteria.
 4. The Board finds that it has considered these relevant criteria and other issues raised on the record.
 5. The Findings of Fact list all of the applicable approval criteria, and demonstrate compliance with these approval criteria. These findings elaborate upon and clarify the findings found in the Applicant's narratives and the County Staff Reports and explain the Board's reasoning in concluding that the application satisfies all applicable approval criteria.
 6. The Board approves the Comprehensive Plan amendment and rezoning of the approximately five acres portion of the subject property, as identified in Order Exhibit B, and limited to the following uses:
 - Processing/milling of salvaged wood, including:
 - The installation of two (2) electric saw mills
 - The installation of, or conversion of an existing building into, a kiln (for drying wood)
 - An additional kiln, if needed, in the future
 - Drying and storage of wood in large outdoor, fenced areas.
 - A small administrative office
 8. This Comprehensive Plan Amendment and Zone Change is limited in scope to the existing and future uses identified above. These uses are considered uses allowed by right in this zone. Any other future uses that are outside the identified scope of the uses will require a new PAPA and Zone Change, in addition to any conditional use permits or other land use permits that might be required. All other regulations and development standards in the Rural Industrial (RI) zone and any other applicable sections of the county's Zoning & Development Ordinance (ZDO) shall apply to the subject area.
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SECTION 2. FINDINGS OF FACT SUPPORTING THE REASONS EXCEPTION AND COMPREHENSIVE PLAN AMENDMENT & ZONE CHANGE

STATEWIDE PLANNING GOALS

The Board finds that the Oregon Statewide Planning Goals (“Goals”) apply to the Comprehensive Plan Amendment and the Zone Change application because they request a post-acknowledgement plan amendment (“PAPA”). ORS 197.175(2)(a); ORS 197.732 (1)(b) (defining an exception as a “comprehensive plan provision”). For the reasons explained below, the Board finds that the Comprehensive Plan Amendment and the Zone Change application is consistent with the following applicable Goals.

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

Goal 1 requires local governments to adopt and administer programs to ensure the opportunity for citizens to be involved in all phases of the planning process. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contains the county’s adopted and acknowledged procedures for citizen involvement and public notice. The Board finds that this application has been processed consistent with the requirements in Section 1300 including notice to individual property owners within 750 feet of the subject property, notice in the local newspaper, and notice to affected agencies, dual interest parties. Public hearings were held before the Clackamas County Planning Commission and Board of County Commissioners, which provided an opportunity for additional citizen involvement and input. No one objected to the procedures followed by the County in this matter. Therefore the Board finds that these application is consistent with Goal 1.

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

The Board finds that the approval criteria identified on pages 3-4 of this narrative establish the land use planning process and policy framework for considering the Comprehensive Plan Amendment and the Zone Change Application. Further, the evidence in the record demonstrates that the Comprehensive Plan Amendment and the Zone Change Application satisfy all applicable substantive standards of the identified approval criteria. As such, there is an adequate factual base for the County’s decision. Therefore, the Board finds that the County has met the evidentiary requirements of Goal 2.

The Board further finds that Goal 2 requires that the County coordinate its review and decision on the Application with appropriate government agencies. The County provided notice and an opportunity to comment on the Application to affected government agencies, including nearby cities and the State Department of Land Conservation and Development.

Therefore, the Board finds that the County has met the coordination requirements of Goal 2.

Statewide Goal 3 - Agricultural Lands. *To preserve and maintain agricultural lands.*

The subject property is considered Agricultural land as defined in the Statewide Planning Goals or County Comprehensive Plan. The Comprehensive Plan Amendment and Zone Change application requests an exception from the requirements of Goal 3 to allow development of non-farm uses on Agricultural lands. This exception is proposed and justified under the "Reasons" Exception Criteria (OAR 660-004-0020 and 660-004-0022). For the reasons explained below, the applicant's proposed Goal 3 exception meets applicable requirements of Oregon law and therefore the Board finds that Goal 3 is not longer applicable to the portion of the property subject to the zone change.

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

The subject property is not considered Forest land as defined in the Statewide Planning Goals or County Comprehensive Plan. Therefore, the Board finds that Goal 4 is not applicable to this application.

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

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

There are no Goal 5 resources identified in the Comprehensive Plan located on the subject property. Therefore, the Board finds that Goal 5 is not applicable to this application.

Statewide Goal 6 – Air, Water and Land Resources Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

The Board finds that the Comprehensive Plan Amendment and Zone Change Application is consistent with Goal 6 for three reasons.

First, the proposal does not adversely impact any environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, or unique natural and/or cultural facilities.

Second, as explained in the ESEE analyses for the project, the overall environmental impact for the proposed use (Goby Walnut and Wood Products) will be considerably less than the previous RV sales and service business that had many more employees based here, had at least one building devoted to major structure welding and repair, and many stored RV vehicles of wide variety and ages. The type of milling done by Goby is with all-electric sawmills (two) which have the lowest possible environmental impact of all milling types, and will be subject to DEQ permitting. Moreover, Goby is an extremely environmentally positive business, as it uses salvage, individually contracted wood for its operation. Even small, left-over pieces from the milling process are used for products such as butcher block surfaces, etc. Goby is also investigating the potential use of hardwood sawdust as part of an ecologically friendly weed suppressant for home use.

Third, The County Comprehensive Plan and ZDO include adopted implementing regulations to protect the air, water and land resources. The County also has implementing regulations to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. These regulations will be applied to any future development proposals on the property and to ensure the protection of the affected air, water and land resources.

In these manners, the Board finds that the application conforms to Statewide Goal 6.

Statewide Goal 7 – Areas Subject to Natural Hazards. *To protect life and property from natural disasters.*

The subject property is not located within any designated floodplain area. According to the Department of Geology and Mineral Industries (DOGAMI) maps the property does not contain any steep slopes or natural hazards (landslide topography, local slump, earth flow, mudflow or debris flow areas). Therefore, the Board finds that Goal 7 is not applicable to this application.

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

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

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

Goal 9 does not apply to this application, as Goal 9 only applies to areas within an urban growth boundary. OAR 660-09-0010(1). *Port of St. Helens v. Land Conservation & Development Committee*, 164 Or App 487, 495, 996 P 2d 1014 (2000). Nevertheless, the

Board finds this land use approval furthers the aims of Goal 9. Clackamas County's Business & Economic Development Division published its Economic Landscape Final Report in June 2012 that identifies Wood Products as a Key Industrial Cluster for the County. As discussed in these Findings, the applicant's Goby Walnut and Wood Products business uses salvage hardwoods grown in the local Willamette Valley, for unique but valuable purposes, and also exports much of its wood to other parts of the world, including Asia. Approving this application will allow this business operation to continue to grow and prosper, benefiting its employees, and the local economy. Therefore, the Board finds that this application is consistent with Goal 9.

Statewide Goal 10 – Housing. *To provide for the housing needs of citizens of the state."*

This proposal does not include any housing; therefore the Board finds that Goal 10 is not applicable.

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

This proposal will not require the extension of any new public facilities to support rural industrial uses. The Board finds that Goal 11 is not applicable.

Statewide Goal 12 – Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

Goal 12 is implemented by the Oregon Transportation Planning Rule ("TPR"), which requires local governments to determine whether or not a proposed PAPA will "significantly affect" an existing or planned transportation facility. OAR 660-012-0060(1). A PAPA will "significantly affect" an existing or planned transportation facility if it will: (1) change the functional classification of a facility; (2) change standards implementing a functional classification system; (3) as measured at the end of the planning period, result in types or levels of travel or access that are inconsistent with the functional classification of an existing facility; or (4) degrade the performance of an existing facility either below applicable performance standards, or if already performing below these standards, degrade it further. *Id.*

At the County's pre-application conference of August 21, 2014, the need for a Traffic Impact Study was identified. The Traffic Impact Study provided with this application as Attachment 2 addresses all aspects of the Statewide Goal 12 – Transportation that relate to individual land use applications. The TIS found that "Full development under the proposed zoning will not significantly affect existing or planned transportation facilities as defined under Oregon's Transportation Planning rule. Accordingly, no mitigation is recommended." (*TIS Executive Summary, item 6*)

Both ODOT and the county's Engineering Division reviewed the Traffic Impact Study.

ODOT submitted a response (*Exhibit 4*), which stated that ODOT had determined that there will be no significant impacts to the state highway facilities and no additional state review is required. The county's Engineering Division had no additional comments (*Exhibit 2*).

The Board finds that this application conforms to Statewide Goal 12.

Statewide Goal 13 – Energy Conservation. *To conserve energy.*

The Board finds that the proposal enables the adaptive reuse and preservation of existing structures. As explained in the ESEE analyses for the project, enabling the adaptive reuse and preservation of these structures allows the substantial investment of materials and energy used to build the structure to continue to provide value rather than to deteriorate. Further, the infrastructure necessary to serve the sites is already available, thus eliminating the need to expend energy to extend utilities and services to support the project.

The entire Goby operation is an energy and material conservation – positive business, as large hardwood trees are salvaged that would otherwise be wasted for less intensive purposes. Goby mills, dries and cures wood for high-quality uses. This location is central to the area Goby covers (Eugene to Portland in the valley), which will further conserve energy by reducing miles trucks will travel between the salvage site (tree) and the site where the wood is milled, stored and dried.

For these reasons, the Board finds that this application is consistent with Goal 13.

Statewide Goal 14 – Urbanization

This Statewide Goal addresses the orderly and efficient transition from rural to urban land uses. Rural Industrial Development is identified and authorized within this Statewide Goal, so the application conforms in this manner. The proposed uses have been found to be consistent with the County's criteria for Rural Industrial designation. Since this is not a request to convert to an urban land use, the Board finds that Goal 14 does not apply to this application.

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

The subject property is not located within the Willamette River Greenway. Therefore, the Board finds that Goal 15 is not applicable to this application.

Statewide Goals 16 – Estuarine Resources, 17 – Coastal Shorelands, 18 – Beaches and Dunes and 19 – Ocean Resources

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

The Board finds that the applicable Statewide Planning Goals have all been met.

EXCEPTION TO STATEWIDE PLANNING GOAL 3 (AGRICULTURE)

An exception is authorized only when “compelling reasons and facts” support the conclusion that it is not possible to apply the appropriate goal ...” This conclusion must be accompanied by a statement addressing four points: (1) need, (2) alternatives, (3) consequences, and (4) compatibility. ORS 197.732(2)(c); *see also* Goal 2, Part II. These four standards are known as the “need” standard, the “alternatives,” standard, the “consequences” standard, and the “compatibility” standard. An administrative rule, OAR 660-004-0020(2)(a)–(d), fleshes out the four standards described in Goal 2, Part II, and ORS 197.732(2)(c). *See generally Still v. Board of Commissioners, Marion County*, 42 Or App 115, 122 600 P2d 433 (1979).

1. The Need Standard: “Reasons Justify Why the State Policy Embodied in the Applicable Goals Should Not Apply.”

The first of the four standards for a “reasons” exception requires the applicant to prove that a need for the use exists, and that the use must be undertaken on the particular resource land at issue. ORS 197.732(2)(c)(A) and OAR 660-004-0020(2) provide as follows:

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

* * * * *

(a) “Reasons justify why the state policy embodied in the applicable goals should not apply.” The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

OAR 660-004-0022(3)(c) is an administrative rule which implements ORS 197.732(2)(c)(A) and OAR 660-004-0020(2). In fact, OAR 660-004-0022(3)(c) is the heart of the “needs” component of a reasons exception for a rural industrial use. It provides standards for determining whether there exists a need to site a rural industrial facility at a particular location zoned for resource use, as follows:

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.

In this case, the applicant seeks an exception to approximately five acres of property that is currently zoned EFU. The applicant seeks to rely on the third of the three listed reasons set forth above: i.e. that “the use would have a significant comparative advantage due to its location * * * which would benefit the county economy and cause only minimal loss of productive resource lands.”

- a. The Proposed Industrial Use Would Have “a Significant Comparative Advantage” Due to its Location Closer to Wood Suppliers; Due to the Ability to Increase Efficiencies and Reduce Transportation Impacts by Consolidating Current Operations, and Due to the Ability to Co-Locate Agricultural uses on the Property to Ensure Future Viability of the Uses

The “comparative advantage” argument is not intended to be a market advantage argument; rather it is intended for uses that can demonstrate that there is something so unique about both the business and the location that the business is dependent on this particular location to be (or remain) viable. Indeed, LUBA has held that for purposes of different exceptions under OAR 660-004-0022(1) that mere market demand for a use that is not allowed by a resource goal is an insufficient “reason” (*Columbia Riverkeeper, et. al. v. Columbia County et.al., LUBA*). “Comparative advantage” generally refers to the ability of a firm or individual to produce goods/and or service at a lower opportunity cost than other firms or individuals. In this case that comparative advantage due to its location should indicate how and why this particular location provides that advantage.

The Board finds that the proposed use presents a solution to a very unique set of issues relating to the “need” argument that creates a comparative advantage to both the Goby business and to the county. It allows the Goby business an opportunity to remain viable comparative advantage in an increasingly competitive niche market, and help ensure future supply for the business in light of the dwindling supply of walnut trees (due to disease), while providing the county with the advantage of putting the entire 20-acre site back into productive use.

Maximizing transportation and land efficiencies

- As noted by the business owner in the BCC hearing, as the Goby business has grown it has had to buy and lease additional parcels of land to place some of its operations. The headquarters property that now includes the showroom, offices, both sawmills, smaller woodcutting machines and both kilns, also has racks of wood drying/curing. The site is extremely crowded, and access/egress off the fronting road (St. Helens Road/Hwy. 30) for large trucks and trailers is awkward at

best. Because of rising land costs in the industrial areas north and northwest of Portland, these parcels have been farther and farther from both the business headquarters and sawmills and the vast majority of the wood suppliers in the region. This has created inefficiencies to the point that the business can no longer operate in a cost-effective manner, let alone continue to grow and expand to remain competitive.

- This proposed site will enable Goby to have the two sawmill machines on the same site as most of its wood drying/curing (both in open yards and in kilns). This will be a big logistical improvement over their existing situation. This proposed Clackamas County site will enable Goby to sell that nearby property in northwest Portland, and will also enable Goby to cease leasing the industrial parcel from the Port of St. Helens.
- This location near an I-5 interchange and towards the middle of the Willamette Valley corridor provides a comparative advantage for Goby's procurement of salvage wood, primarily from the Willamette Valley. Very few trips are made across the Columbia River to Washington, compared to length and breadth of the Willamette Valley. Please refer to *Applicant's Exhibit 5*, which includes Goby's list of salvage wood purchase locations from April 1 through September 25, 2015. Note this list includes only three State of Washington purchases (8% of the total), while Oregon accounted for 89% of the purchases, 73% of which originated south of Portland.
- In addition to buying most of their trees south of Portland in the valley, Goby's biggest manufacturing vendor is located in Hubbard, nearby and south of Aurora on Hwy 99E. They also rent a dry kiln space in a small mill in Scio, further south in Linn County. That drying would be relocated on the subject property.
- Besides the environmental advantage of fewer miles traveled before cutting and drying/curing, this location provides a financial advantage for the business in this increasingly competitive niche market.

Unique site demands and unique user

- The subject property is uniquely suited for the Goby business. Not only does the subject property allow the business to consolidate a large number of its operations to one site, providing for lower opportunity costs, and allow the business to greatly reduce the vehicle miles travelled both by locating closer to suppliers and by eliminating the need to truck slabs between multiple sites for milling and drying; but it also allows for the expansion of the operations to include the growing of seedlings and walnut starts, as well as other hardwoods. In light of recent losses of walnuts all across the western United States to disease, Goby has identified this as one way to help ensure viability of the business into the future.
- The need to carefully manage new tree seedlings on site is especially important, as a twig beetle is spreading in the Valley that causes significant tree disease for Oregon Black Walnut trees. According to testimony from Goby's owners, there is also the possibility of Oregon State developing a more disease-resistant strain of walnut that also may be planted on-site and would need to be closely managed by Goby

employees. And this, too, would allow the business to maximize the transportation advantage by having these operations on the same site.

- As such, with its extensively developed “upper” acreage and uncultivated farmland on the “lower” acreage, the Board finds that this site is uniquely situated for this particular business which needs both components to fully develop its business model for a sustainable and viable future for the company. And conversely, its unique configuration makes it rather impractical for other businesses that could locate on the site under the existing zoning, as evidenced by the property sitting vacant (and on the market for sale) for over five years.
- This proposal also creates an opportunity for the county to put this unique site completely back into productive use. Not only is it unlikely that another business needs or could so fully utilize such a site, but it is unlikely that the Goby business could find another site that enable both the processing of wood obtained off-site, the extensive outside storage of the wood, and the active cultivation of new walnut trees and other hardwoods so begin to mitigate losses in the area due to disease.

The Board finds there is a “significant comparative advantage due to its location” as well as a “specific transportation and resource advantage” in allowing the Goby business to locate on the subject property.

b. The Proposed Industrial Use Would Benefit to the County Economy

Imbedded within approval criterion (c) of OAR 660-004-0020(3) is “benefit to the county economy...” The Goby business operations proposed for this site would accomplish this in two ways:

1. Policy 8.A.5 of the County Plan’s Economics chapter is: “*Encourage industrial resource-oriented industries by:*” followed by 8.A.5.2: “*Identifying and recruiting firms doing secondary wood processing using wood products now underutilized or considered waste, i.e., hardwoods, slash materials, etc.*” This is exactly the type of resource-oriented industry that Goby serves with its hardwoods. It salvages hardwoods including walnut and maple that would not be milled elsewhere, and prepares and markets that wood for numerous secondary wood processing uses by other firms. As noted, mill ends are also used and wood shavings are also being developed into a separate weed suppression product.

There are numerous wood processing-related firms that are being encouraged by the County’s Business and Community Services Department could benefit from Goby’s business location. Goby is a source for unique and high-quality hardwood sections that may be used by a variety of existing firms located in Clackamas County.

The document CLACKAMAS COUNTY ECONOMIC LANDSCAPE: Emerging Trends and Strategies, published June 22, 2012 was adopted by County Commissioners and is used by the County’s Department of Business and Economic Development. Section I of that document explains its use as assisting the County to achieve its

economic goals, which include among others, “Ensuring that we are efficiently using our land and infrastructure for the highest and best value, and that it balances economic opportunity with quality of life measures.” Certainly, allowing a viable and growing business to use this existing five-acre site that now has completely vacant building and completely vacant and fenced yards will be efficiently using the land and infrastructure.

That document identified 11 top “industry clusters” in Clackamas County. Wood Products Manufacturing, which includes lumber mills and finished wood products, is one of those key industrial clusters. The document (beginning on page 19) stated that as of 2010, those 11 key clusters accounted for approximately 50% (\$7.7 billion) of the County’s total gross domestic product (GDP), and 42% of the county’s jobs. The average employee compensation for the key clusters was 40% above the County’s average wage rate.

The Wood Products Manufacturing cluster, though likely smaller now in comparison to previous years in Clackamas County, is still significant, and is “still one of the top ten traded clusters” according to that County Economic Landscape report (beginning on page 38). Much of this sector relates directly or indirectly from proximity to softwoods (fir) sourced primarily from the Mt Hood National Forest. However, several wood products businesses in the county also use specialty hardwoods such as those provided by Goby (there is a list of representative wood products businesses on page 38 of that report). Having this portion of the Goby business closer to these businesses of the County’s Wood Products Manufacturing cluster could only help this important business cluster. And like the County’s manufacturing cluster, much of Goby’s product is exported outside the Portland metro area.

2. Removing this property’s current vacant, blighted appearance is also an important factor, at least for this local part of Clackamas County. There will be an economic benefit to this particular part of Clackamas County by bringing a viable business onto this property that has been vacant since 2011, or earlier. These five acres, including the several former industrial/commercial buildings and large expanses of fenced asphalt and gravel yard areas will be refurbished with this new use. Although most all buildings are still very useable (please refer to pages 23-24 of the *Application’s Attachment 6, Land Appraisal*), they are beginning to present a blighted appearance due to the length of time since active uses have occurred on this property.

This Rural Industrial Plan and zone designation will also benefit the County’s economy by making use of existing but vacant industrial/commercial buildings and the surrounding fenced asphalt and gravel yards. This will conserve land and resources, a County Economy consideration.

The Board finds that putting this site back to productive use, especially given the unique availability of the existing buildings and fenced yards, will have a distinct positive impact, to Clackamas County’s economy.

d. Locating the Proposed Use at the Proposed Site Will “Cause Only Minimal Loss of Productive Resource Lands” Because the Site is Already Partially Paved and the Buildings Are Already Constructed.

The Board finds that the portion of the site subject to the proposed zone change is already fully developed and, as a result, the granting of a Goal 3 exception does not entail any loss in resource productivity.

The extent of the existing commercial/industrial improvements (as well as the long historic commercial/industrial uses) on these five acres has already been described extensively in this document. The part of the 20 acre tax lot subject to this Plan and zone change has been out of any agriculture production since at least the 1960’s, according to County Assessment and Taxation records.

The Board finds that the “need” standard of the Reasons Exception is satisfied in the manner thus described.

2. The “Alternatives” Standard: Areas Which Do Not Require a New Exception Cannot Reasonably Accommodate the Use.

As discussed above, the second of the four state-mandated standards for justifying a “reasons” exception requires the applicant to undertake an alternative-site analysis to satisfy ORS 197.732(2)(c)(B) and OAR 660-004-0020(2)(A). Areas that do not “require a new exception” includes lands located outside of an urban growth boundary zoned for rural industrial uses, (others) as well as sites within an urban growth boundary zoned for industrial uses.

The Land Use Board of Appeals (LUBA) very clearly stated that the relevant question under this criteria is *not which site is better suited, but whether an alternative site that does not require a new exception can “reasonably accommodate” the proposed use. If so, an exception is not warranted for the preferred site, even if the preferred site is better suited for the proposed use than the alternative site*” (p. 32, *Columbia Riverkeeper v. Columbia County*).

Mandatory Requirements for a Suitable Site

To complete this analysis the needed site characteristics are first identified. This business’s location and property requirements are discussed in the previous, “need” standard, and elsewhere in the original application’s proposed findings of fact.

- Generally, the location needs to be centrally located within the Willamette Valley, it needs to be near an I-5 interchange, it needs safe ingress and egress for large trucks, and it should not require driving through neighborhood streets for deliveries and needs to be generally in the area south of but in close proximity to the Portland metropolitan area, to maximize transportation efficiencies between wood suppliers (predominantly to the south) and the company’s headquarters and showroom (in north/northwest Portland).

- The site needs to contain a large paved or graveled and fenced area for drying/curing and storage of the hardwood slabs - approximately 4-5 acres in order to replace the two, non-headquarter sites now used for that purpose, and to allow for some business growth.
- The site needs to contain at least two buildings large enough to house Goby's two sawmill rigs, including high overhead doors, and other buildings suitable for drying/storing wood.
- The site needs sufficient and appropriately-zoned acreage for the planting of tree starts and nursery stock.

This section of the rule sets out three areas that must be addressed in an alternative areas analysis. Each is discussed separately below.

- 1) Areas inside an urban growth boundary (UGB)
- 2) Areas outside a UGB that would not require a Goal exception
- 3) Natural resource areas, already committed, including in unincorporated communities

1) Reasons for Rejecting All Sites Within An Urban Growth Boundary As Viable Alternatives.

Before considering any specific alternative areas, these findings will address why, in general, *any* site inside the Urban Growth Boundary is not a reasonable alternative in this case. First, the current site contains significant improvements, such as paving, a fences gravel yard, and several buildings of various size, which results in the land thereunder being physically committed since at least the 1960s. To recreate these improvements on vacant land located inside an Urban Growth Boundary would be cost prohibitive.

Second, the applicant noted, and the Board finds, that sites that do not have on-site agricultural land cannot be operated as an "integrated whole," which is essential to the Goby business remaining viable into the future in light of dwindling supplies of walnut trees due to disease.

Portions of this business are currently located within a UGB; however, as noted by the business owner at the public hearings, the site they are currently located on is not a typical industrial site – it was purchased as a distressed property and has a sizeable constrained, unusable area. The nature of their business is very land intensive, has low job density and does not need urban utilities, all of which make it difficult to find an affordable site within a UGB in which to consolidate the operations that need to be consolidated. The headquarters and showroom will remain on the site within the UGB, as is appropriate for the nature of these uses and the proximity to customers.

The functions proposed for the subject property, however, are land-intensive and cannot outbid other more labor-intensive industrial uses for more centrally located properties in well-established, high-intensity industrial sites. The converse seems important as well. That is, cities' industrial siting policies typically encourage uses that generate more employment per acre for their existing general industrial-zoned lands. From this activity

level standpoint, the proposed site fits the Goby situation perfectly, as does the extensive pre-existing improvements (numerous serviceable buildings, fencing, extensive paved and compact graveled yards) on this unique site.

Also, Goby does not require the major public infrastructure typically existing at other industrial properties, such as water mains and sanitary sewer systems.

The three UGB areas located in the same proximity “central Willamette Valley” include Aurora, Canby and Wilsonville.

Aurora: The City of Aurora (in Marion County) has an area with several industrially zoned properties and businesses along railroad tracks, west of Hwy 99E, with access via Ottaway Road (refer to *Applicant’s Attachment 8, City of Aurora Zoning Map*). As of a site investigation on March 25, 2015, there were no industrial properties for sale in that area. One business (Smetco), has a large paved yard/maneuvering area and large buildings, but it is an operating business and is not for sale. Further, none of the industrial parcels in Aurora have an area suitable for the seedlings/ nursery stock.

Canby and Wilsonville: In regard to the incorporated industrial areas of the City of Canby, and the Coffee Creek Industrial area of Wilsonville, both of these areas are suited for and planned for much more labor-intensive industrial uses, and labor-intensive industrial uses are encouraged by active recruitment as well as by relatively much higher land prices and levels.

The following table is table provided by the City of Canby Planning Department listing the 11 business in the city’s Pioneer Industrial Park. While site sizes vary, the average number of employees per acre ranges between a low of 5.8 to a high of 35.5. This would correlate, at the lowest range, to 5.8 x five acres at our site, or 30 employees, when Goby plans to locate only 3 here.

2014 Canby Pioneer Industrial Park Employers and Jobs Per Acre

Business Name	Employees	Acres	Jobs per Acre	Business Description
Fred Meyer	232	12.97	17.96	Retail Sales
Kendal Floral	204	5.75	35.5	Whole Flower Distributor
Shimadzu USA Mfgr.	145	15.1	9.6	Mfgr of Scientific Eqmt
Pioneer Pump	95	4.48	21.2	Pump Manufacturer
American Steel	75	9.21	8.1	Steel Service Center
BBC Steel	45	4.61	9.8	Steel Fabrication
Pump Tech	20	1.05	5.8	Pump Mfgr & Distrib
Bowco	31	3.46	9.0	Precision Injection Molds
Vata, Inc.	16	0.92	17.4	Anatomical Health Prdcts.
Anderson Quality Sprgs	35	2.94	11.9	Coil Spring Manufacturer
Providence Medical	37	1.89	19.6	Health Care Center

Source: City of Canby Planning

These are the kinds of uses promoted by cities for their industrial parks, with the anticipation of high employment generators. The Canby industrial areas including this Pioneer Industrial Park, are also fully served with public utilities including public water and sanitary sewer. These utilities are not needed by the Goby use's low intensity of property use and it is not practical to pay a premium for a site with the full array of public utilities when they are not necessary for the business.

Likewise, the Coffee Creek Industrial area now under development in the City of Wilsonville is also not suitable as an alternative site for the Goby business. The Coffee Creek Industrial area which is in Wilsonville's northwest area adjacent will ultimately have 187 acres available for industrial uses. However, the area is in the process of becoming fully served by public water and sanitary sewer. The City anticipates at least 1,800 jobs at full build-out of that industrial area, according to that City publication. That equals over nine employees per acre, well over what Goby intends. This area is also a labor-intensive industrial area – not what Goby wants or what Goby needs or can practically afford.

Furthermore, Wilsonville's Urban Renewal Manager with responsibility for the Coffee Creek Industrial area flatly stated, in a 9/25/15 telephone discussion, that she thought the Coffee Creek Industrial area was not suited for the Goby business because the land values are too high, that its master plan calls for labor-intensive uses, and that some the area has an overlay zone that would prohibit outdoor storage such as Goby's wood drying racks.

The Board finds that the proposed uses cannot be reasonably accommodated within an urban growth boundary.

2) Reason for Rejecting Areas Outside UGB that Would Not Require an Exception

The Board finds that areas nearby that are zoned for Rural Industrial use (i.e. "would not require an exception") are not reasonable alternatives for the proposed uses because

- (1) Based on several windshield surveys there are no sites of appropriate size, with the needed structures available; and
- (2) There are no sites that contain or are immediately adjacent to the needed agricultural land for the planned agricultural activities of the business.

Please refer to *Application Attachment 4, County Comprehensive Plan map*, that includes the Rural Industrial zoned lands immediately west of the Molalla River from Canby and adjacent to the city of Barlow. A fairly large and wide variety of businesses are found in this area; 30 of which existed as of as of September 2014 are listed in the *Application Narrative, Vicinity Description*.

In order to determine whether any of the properties of those businesses were available, let alone suitable for the Goby business, three later site investigations were also made, the latest being on April 21, 2015. As of that date, there were no properties for sale either north or south of Highway 99E. With existing businesses located on all available properties, the conclusion was that there are no alternative sites available on this end of the

study area. Also there does not appear to be any extensive amount of bare land not already being used in some fashion by those existing businesses.

In addition to no site being available, there were no sites identified that might contain or be adjacent to the needed agricultural land.

3) Reason for Rejecting Natural Resource Areas, Already Committed, Including in Unincorporated Communities

Within the needed general locale, identified above, the applicant identified no “committed” natural resource areas except a nearby commercial business (restaurant) and a grange; both located along S Hwy 99E, just south of the subject property. The Board finds that neither of these sites would be suitable for the proposed business for a number of reasons:

- Neither site has an historic commitment to industrial uses, nor is developed with industrial buildings – one contains a commercial building and one a grange building.
- Neither site is large enough for the planned uses on the subject property (both are approximately one acre in size).
- Neither site is available – the restaurant is currently operating and has been, according to its sign “since 1926,” and the grange still operates as such.

The Board finds Unincorporated Communities located in Clackamas County do not provide feasible alternatives for the proposed business. Unincorporated Communities or Rural (Population) Centers are settlements located outside urban growth boundaries in which concentrated residential development is combined with limited commercial, industrial or public uses. Unincorporated communities in Clackamas County include Beavercreek, Boring, Redland, Mulino, Colton, Marquam, Boring, Wildwood, Welches, Zig Zag and Rhododendron. With the exception of Boring, none of these areas have any parcels zoned for Rural Industrial. The Board finds that none of these areas meet the needs posed by the applicant’s business, in large part, because none are located in the general vicinity as the subject. The closest of these communities to the subject – Mulino and Beavercreek are ___ miles to the east and not easily accessible from I-5 via a highway or major arterial. Furthermore, neither of those communities contains industrially-zoned land.

The Board finds that there are no reasonable alternative areas for the proposed uses to locate and therefore the “alternatives” standard for the Reasons Exception is satisfied.

3) The “Consequences” Standard: EESE Analysis for Alternative Sites That Also Require An Exception (i.e. other sites zoned EFU).

“Consequences” Standard

The third standard requires the applicant to evaluate the long-term environmental, economic, social and energy consequences of selecting the requested site over other similar sites that would also require an exception.

Here, the Board finds there are two facts that, when viewed together, are dispositive on the issue of agricultural productivity. First, the subject property is *already developed* with structures that prohibit the use of that land for farm uses. For this reason, there is no long-term economic impact on the general area by the “irreversible removal of the land from the resource base.” Second, the applicants have identified *no other site* in the County with similar improvements, size and configuration. For this reason, the land under the buildings on the proffered site is, by its very nature, the least productive farm land.

Imbedded within OAR 660-004-0020(2)(c) is the criterion that *“The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in area requiring a goal exception other than the proposed site.”*

The analysis under this State rule need only be a “*broad review*” of similar types of areas.

Environmental Impact:

Here, the Applicant’s proposed site is already developed with all the infrastructure needed to carry out Goby’s planned operations. After conducting an extensive search, the applicant could locate no other site containing a concentration of existing and available industrial buildings located on “lands that require an exception” (*i.e.* EFU zoned lands) in Clackamas County. As such, evaluating the environmental consequences of remaining on the current site versus building a new facility on other vacant EFU land is simple. The Board finds constructing a similar facility on other EFU land would be much more environmentally detrimental, as it would require paving over, gravelling or developing structures on four to five acres of farmland, and constructing several large buildings. All other things being equal, it is better for the environment if productive farmland is left alone, and already-built structures are put to their most productive use.

Furthermore, it is rare and fairly unlikely that another site could be found that has the same natural buffer to adjacent agricultural uses as this site, with its forested and steep slope buffer between the proposed site and agricultural areas to the east.

Economic Impact:

Much of our Reasons exception deals with the economic impacts of this application, all of which are positive impacts on Clackamas County and are discussed in detail on pages 14 to 15 of this document.

As such, the Board finds that the economic impact on the County in general overwhelming favors this site over using a “new” agriculturally zoned site for several reasons.

- To place the uses Goby will move to the subject property on another agriculturally-zoned (EFU) site would require a considerable, unnecessary expenditure by the client to construct buildings, infrastructure (power, telecom), plus paving and/or gravel surfacing for maneuvering and wood drying racks. In addition, moving to another

EFU-zoned site would likely (given the fact that it has sat vacant for more than five years) leave the current property idle, wasting the economic value of the already-built facilities.

- It is hard to imagine, and probably outside the purview of this Goal 3 Exception process, to imagine a more suitable use for this site, from an overall County economic perspective. Almost all conceivable uses that would utilize the extensive improvements here would require the same kind of Goal 3 Exception process. Using this property enables an Oregon-owned company to gradually expand its operations and make the business much more efficient, meaning the likelihood, over time of additional employment at this site as well as for the company as a whole. This is an important economic impact to consider.
- It is highly unlikely that there is another farming use that could efficiently utilize these assorted industrial and commercial facilities, as evidenced by the fact that the property has been sitting idle for at least five years.

Social Impact:

The Board finds that the social impact on the County in general overwhelming favors this site over using a “new” agriculturally zoned site both because it will create positive social impacts on the existing site and would create negative social impacts on a “new” agriculturally zoned site.

- Negative social impact associated with the historically commercial/industrial use of this property is not quantifiable, but the former RV Sales and Service, repair and fabrication business was part of a cluster of non-agricultural uses at this general location, including the grange hall, the Top O’ Hill Restaurant, and the auto racing business across the highway. And as noted in the “compatibility” section of the reasons exception criteria (pg 23), the Goby business, despite being “industrial” in nature process trees – natural resources – a much better and more compatible neighbor for agricultural lands than the previous heavier industrial uses.
- The vacant condition of this site and its several buildings are currently an unattractive nuisance that will go away when a viable (Goby) use finally moves back in, after approximately five years of vacancy and inactivity, a distinct positive social impact.
- As limited as the Goby business proposal is, it would have a larger social impact to locate on an agriculturally zoned property nearby that does not have this unique commercial/industrial history or physical commitment because of the need to develop four to five acres, then move industrial operations and employees on site.

Energy Impact:

Enabling the adaptive reuse of the structures that currently exist in various states of disrepair on the subject property allows the substantial investment of materials and energy that were used to develop the site to continue to provide values rather than be allowed to continue to deteriorate. Because the needed infrastructure is already available at the site, there will be no energy expenditure to bring utilities to the site.

Conversely, all the energy that would be expended to build the same amount of improvements on a nearby farm property, that already exist at the proposed site, would be wasted, and this site would remain vacant.

The Board finds that, based on the previous analysis and findings, the “consequences” standard for the Reasons Exception is satisfied.

4) The “Compatibility” Standard: The Proposed Uses are Compatible with Other Adjacent Uses (or Will be so Rendered Through Measures Designed to Reduce Adverse Impacts).

“Compatible” in the State rules is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. The Board finds that for this situation, the natural advantages of buffering, the historical “test” of compatibility afforded by the long historical use of this site for commercial/industrial purposes, plus the relatively “light” proposed industrial use activities all lead to the conclusion that this RI Plan and zone proposal and use will be compatible with surrounding uses.

Compatibility in this case is fairly easy to analyze, since the adjacent uses have experienced a more intense non-resource use as a neighbor since the 1960’s. The use of the exception area to be permitted by the Board’s action is far less intensive than historic uses of the site.

The RV sales and repair/service business gradually expanded to use all the area now proposed to receive the RI Plan and zone designation. Compared with the historical use on this site that included retail sales and consignments and constant flow of large vehicles and trailers coming and going from the site, the occasional trucks with hardwood tree sections will also be more compatible from a transportation impact standpoint. Compared to the large RV business at its peak, the Goby business, with only two to three employees based here, milling work to be conducted indoors and wood stored for drying/curing both indoors and outdoors, can be expected to have considerably less impact on surrounding uses.

The five acre site has natural advantages for compatibility and buffering from surrounding resource uses. The significant slope with large trees separates this site from agricultural uses to the east and north. The west boundary is the long highway frontage and across the street are other non-resource uses. To the south are the Weyerhaeuser tree nursery fields which are separated by an existing chain link fence. Instead of parked RVs and trailers and their movements, that adjacent yard to Weyerhaeuser will be used for storing wood slabs, again a positive compatibility trade-off.

The ability to sustain adjacent resource uses has already been tested by the long occupation of the previously large RV related business. Tree-farm activities at the adjacent Weyerhaeuser Forest Nursery complex and other nearby farming enterprises have been sustained despite being next to these five acres of developed, industrial land.

The Board finds that the uses planned for the subject property will be compatible with neighboring properties with regard to noise and not mitigation is needed.

- The two mills, one larger than the other, will be housed within an insulated metal building (one of many existing buildings on this site). Both mills are single-blade saws that operate only when new tree sections arrive at the site to be cut into slabs. The nearest dwelling is approximately 200 ft. distant, and the next nearest dwellings are over 300 ft. distant, across Highway 99E. *Application Exhibit 8* contains decibel readings and photos for the mills where they are now located on St. Helens Road/Hwy. 30 in Northwest Portland. Four decibel readings were taken approximately 50 feet from the large mill (toward Hwy 30 to the north). That mill is now housed in a semi-enclosed shed.
- The results of these readings are that noise from the saw was only marginally louder than the ambient noise of the site. Given that the nearest house on the subject property is nearly four times farther than these readings were taken, there is not expected to be any incompatible noise impacts from the proposed uses.

Based on the above findings, the Board finds that the “compatibility” standard of the Reasons Exception is satisfied.

Conclusion

The Board finds that the applicant’s proposal addresses and satisfies all four of the Reasons Exception standards, including need, alternatives, consequences and compatibility and therefore the Goal 3 exception is warranted.

660-004-0018: Planning and Zoning for Exception Areas. Subsection 660-004-0018(4): “Reasons” Exceptions, applies to this application.

- 660-004-0018(4)(a): *When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.*

With the adoption of this Comprehensive Plan map amendment and zone change, the use of the property will be limited to only those uses approved through the Goal 3 exception, and as noted in the General Findings on pages 4 and 5 of this document.

CONFORMANCE TO COUNTY COMPREHENSIVE PLAN AND PLAN CHANGE APPROVAL CRITERIA

Relevant goals and policies from the County’s Comprehensive Plan policies are addressed below.

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 1.0; *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 property owners within 750 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1302 of the ZDO. The Planning Commission and Board of County Commissioners will also conduct one or more public hearings to provide opportunities for citizen participation. The notification to property owners, public notices and hearings will ensure an opportunity for citizens to participate in the land use process. The Board finds that 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 is not located in any of the above-mentioned protected areas and does not contain any land planned or zoned for forest uses. Therefore, the only applicable subsections in this Chapter are in subsection 2) Agriculture and 8) Noise and Air Quality.

Agriculture: This section of Chapter 3 contains the following goals for agricultural lands in the county:

- *Preserve agricultural lands.*
- *Maintain the agricultural economic base in Clackamas County and the State of Oregon.*
- *Increase agricultural markets, income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.*
- *Maintain and improve the quality of air, water, and land resources.*
Conserve scenic areas, open space and wildlife habitats

By changing only the upper five acres of the subject property to the Rural Industrial Plan and zone designation, the impact will be limited to the portion of the property that was long ago taken out of agriculture production (if it was ever even in production). The rest of the property (14.25 acres) will remain in EFU, effectively preserving the only farmland on the site that may have been in recent past or has the potential for future use as active production and/or grazing land and even returning that land into active production. The

physical separations on the property are ideal for an un-conflicted, continuation of both kinds of uses.

Noise and Air Quality:

There are no policies in this section that are directly applicable to the application but the proposal will serve to further the goals of this section of the Plan, including:

- *Maintain an environment not disturbed by excessive levels of noise.*
- *Promote maintenance of an airshed in Clackamas County free from adverse effects on public health and welfare.*

As noted, this proposed use will include only electric saw mills which are the least polluting of large-scale saws (to be moved from the Portland property), and they will be housed indoor in existing buildings. These mills generate marginally more noise than the ambient noise level along a highway.

Locating this function of the Goby business here in this central location within the Willamette valley and on a site that can consolidate several others, is expected to reduce the vehicle miles travelled by trucks delivering tree trunk sections from Goby's salvage/harvest market area and eliminate the need to transport slabs to different locations for drying and thus reducing vehicle emissions into the county's airshed.

The Board finds that this application complies with all pertinent Goals and Policies of this Plan section.

Chapter 4, Land Use

The Land Use Chapter of the Comprehensive Plan contains specific policies for determining the appropriate Comprehensive Plan land use designation for a property. The applicants are requesting a change in the plan designation for five acres of the subject property from Agriculture to Rural Industrial. In order to determine whether the subject property better meets the criteria for an Agriculture plan designation or the proposed Rural Industrial plan designation, an evaluation of the applicable policies for Agriculture and for Rural Industrial are described below.

Agriculture:

Goals

- *Preserve agricultural use of agricultural land.*
- *Protect agricultural land from conflicting uses, high taxation and the cost of public facilities unnecessary for agriculture.*
- *Maintain the agricultural economic base of the County and increase the County's share of the agricultural market.*
- *Increase agricultural income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.*
- *Maintain and improve the quality of air, water, and land resources.*

- *Conserve scenic and open space.*
- *Protect wildlife habitats.*

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

Policy 4.OO.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;*

Policy 4.OO.1.2. *Areas generally in parcels of 20 acres or larger;*

Policy 4.OO.1.3. *Areas primarily in agricultural use;*

Policy 4.OO.1.4. *Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;*

Policy 4.OO.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.10. *Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Agriculture designation to any designation other than Forest.*

All of the 20 acres of subject property, except the wooded slope separating the five acres from the balance of the site have Class I through IV soils (see *Applicant's Attachment 1*). However, the five acres adjacent to highway that has had the historically commercial and industrial uses, has numerous significant and serviceable buildings plus a large amount of asphalt and compacted gravel yards above those soils and is clearly not in agricultural use. Nor is that area necessary to permit farming practices on adjacent land as it has housed industrial/commercial uses completely unrelated to farming uses for many decades.

For these reasons the Board finds that the portion of the subject property subject to the Plan and zone change does not meet the Plan criteria to be designated Agriculture and has taken an exception to Statewide Planning Goal 3.

Rural Industrial:

The Goals of the Rural Industrial Section of the Plan are:

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

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

character, rural development, and rural facilities and services.

The subject property is located outside of the Metro UGB and boundary and is considered a non-urban area. The Rural Industrial Plan designation and implementing RI zoning district limits the type and scale of uses which are appropriate for rural development. The property is not located in a public water, sewer, or surface water district. Those services are not proposed or necessary to support the proposed Rural Industrial plan designation. Services to the area include garbage service and sheriff patrol services. The public facilities and services are appropriate to maintain the rural character of the area.

The uses proposed on the subject site are not labor intensive (with only two to three employees on site initially) and are consistent with the rural character and surrounding rural development in the area. Due to the need to take a "Reasons exception" to Goal 3, the specific rural industrial uses proposed on the property would be the only ones allowed, if this application is approved.

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

If the Comprehensive Plan Amendment is approved on all or a portion of the subject property, the RI zoning district is the only zone designation that can be applied to the property to implement the Rural Industrial plan designation. In this case, the zone designation would be applied but the uses limited to only those approved under the Goal 3 "Reasons exception." The proposed use is listed as an allowed use in the RI zoning district; no other uses listed in the Rural Industrial section of the ZDO would be allowed.

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

In this case, the first criterion applies to the application, as follows.

Policy 4.MM.3.1. *Areas shall have an historical commitment to industrial uses.*

The historic uses on the property have been well documented through the verification and alterations/ modifications of the prior nonconforming uses. The earliest know industrial-type use on the property was in 1947 and included light and heavy mechanical work on construction vehicles. Other uses prior to the vacation of the property in 2011 included welding; metal fabrication; light and heavy mechanic operations for various types of vehicles and equipment; and (incidental) resale of recreational vehicles, utility trailers, light trucks and utility vehicles. The property was most-recently occupied by the Top O'Hill RV Sales and Service business that was operating legally under a nonconforming use status that was verified and altered/expanded in 1990 (file #Z0432-90-E) and in 1996 (file #Z1148-96-E).

The five-acre portion of the property subject to the Plan/zone change is currently developed with over 9,000 square feet of building space, the majority of which were used for the

various industrial (and some commercial) activities. This portion of the site has a well documented history of historical commitment to industrial uses.

For these reasons the Board finds that the portion of the subject property subject to the Plan and zone change can satisfy all the criteria in the Comprehensive Plan for a Rural Industrial Plan designation and that designation is the most appropriate for that portion of the subject property.

Chapter 5: Transportation System Plan. *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 policies found in this chapter that are relevant to this application are found in the Roadways section.

As discussed previously, the applicants submitted a Traffic Impact Study (TIS) which found the proposed Plan/zone change and proposed use of the property will cause negligible impact to the transportation system and no significant impact to further degradation or performance of the intersection and is in compliance with the Transportation Planning Rule (OAR 660-12).

Based on the TIS, as reviewed by ODOT and county Staff, the Board finds that this application is consistent with Chapter 5.

Chapter 8: Economics. *The Economics element of the Plan contains three goals.*

- *Establish a broad-based, stable, and growing economy to provide employment opportunities to meet the needs of the County's residents.*
- *Retain and support the expansion of existing industries and businesses.*
- *Attract new industrial and commercial development that is consistent with environmental quality, community livability, and the needs of County residents.*

Policy 8.A.1 *Protect established industrial and commercial areas from encroachment by incompatible land uses.*

By changing the Plan designation and zoning of the portion of this parcel that is an historically committed commercial/industrial area, the county is ensuring that only those allowed industrial uses will be allowed on the site, thus eliminating the possibility of “encroachment of incompatible land uses.”

Policy 8.A.5 *Encourage industrial resource-oriented industries by:”*

Policy 8.A.5.2: *“Identifying and recruiting firms doing secondary wood processing using wood products now underutilized or considered waste, i.e., hardwoods, slash materials, etc.”*

This is exactly the type of resource-oriented industry that is Goby. It salvages hardwoods including walnut and maple that would not be milled elsewhere, and prepares and markets that wood for numerous secondary wood processing uses by other firms. As noted, mill ends are used and wood shavings are also being developed into a separate product. By allowing the Goby business to locate on the subject site, this policy as well as the third goal in this section (*Attract new industrial and commercial development that is consistent with environmental quality...*) are addressed and satisfied.

The Board finds that this application is consistent with Chapter 8.

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

The purpose of this Plan Chapter is to establish a framework for land use decisions. The Board finds that this proposal conforms to Chapter 11, Planning Process in the following manner.

City, Special District and Agency Coordination Section

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

Notice of this application has been provided to all appropriate agencies and parties and advertised public hearings before the Planning Commission and Board of County Commissioners provide an adequate opportunity for interagency coordination of this plan amendment and demonstrates compliance with this policy.

Amendments and Implementation Section

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

This is a quasi-judicial Comprehensive Plan map amendment and is subject to subpolicies 3.1, 3.3 and 3.4.

Subpolicy 3.1; A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.

The property is currently owned by the Celtic Bank Corporation. The Land Use Application form has been signed by a representative of the Celtic Bank Corporation, authorizing filing of the application.

Subpolicy 3.3; All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.

The Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with all ZDO notice requirements.

Subpolicy 3.4; If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.

The property is located within the boundaries of the S Canby CPO, which is inactive. Property owners within 750 feet of the subject property were notified as required in Section 1303 of the ZDO.

The Board finds that this application has been processed consistent with Chapter 11.

Based on the above findings and analyses, the Board finds the application is consistent with all applicable County Comprehensive Plan Goals and Policies.

CONFORMANCE TO COUNTY ZONE CHANGE CRITERIA

Zone change approval criteria of the County's Zoning and Development Ordinance (ZDO) are found in Section 1202.01, APPROVAL CRITERIA. The applicant must provide evidence substantiating the following:

(A) Approval of the zone change is consistent with the Comprehensive Plan;

The Board finds that, based on the findings noted previously in this document, the Rural Industrial plan designation is consistent with the Comprehensive Plan for the five-acre portion of the subject property and the proposal is consistent with all other applicable Comprehensive Plan goals and policies.

(B) If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the

implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zone change and development of other properties under existing zoning designations shall be considered.

The subject property is not located in a public sanitary sewer, or surface water district, nor would there be there a need to extend these services to support the proposed RI zoning district. Sewage disposal would be accommodated by an on-site sewage disposal system. Surface water will be accommodated by on-site detention or other facilities approved under Section 1008 of the ZDO as administered by the DTD, Engineering Division.

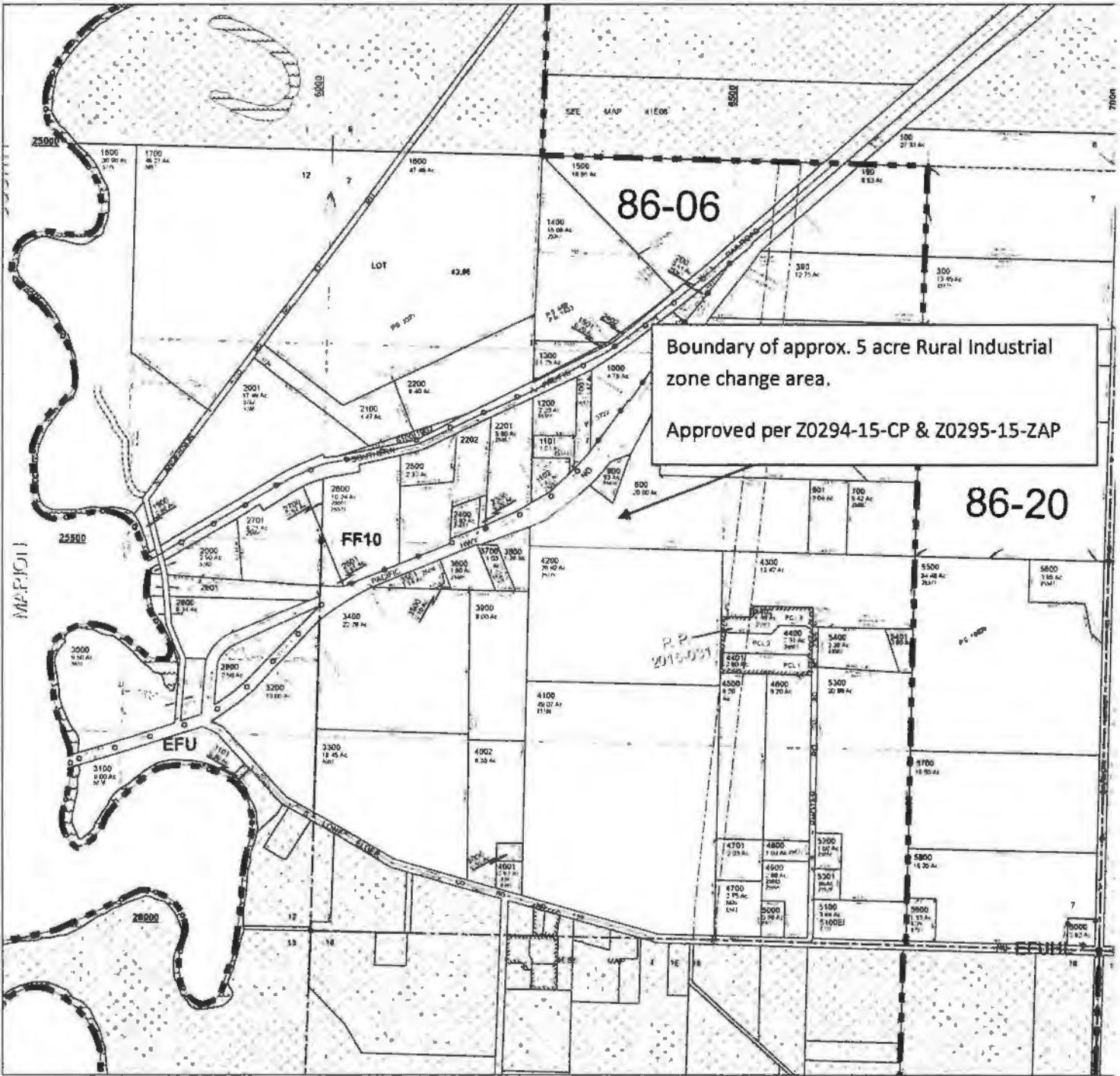
(C) The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from Subsection 1202.01(C).

The applicants hired a consultant to complete a Traffic Impact Study (TIS). That consultant worked with County Engineering staff and staff from ODOT to scope the study and completed it in September 2014. Both ODOT and the county's Engineering Division have reviewed the TIS and neither identified any issues or concerns with the study.

(E) Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

The TIS submitted by the applicants found the proposed Plan/zone change and proposed use of the property will cause negligible impact to the transportation system and no significant impact to further degradation or performance of the intersection and is in compliance with the Transportation Planning Rule (OAR 660-12). Based on the TIS, as reviewed by ODOT and county Staff, this application is consistent with all applicable provisions in the ZDO.

The Board finds that this application satisfies all the criteria in Section 1202.01 of the ZDO because it has been found to be consistent with the Comprehensive Plan criteria for a Rural Industrial plan and zoning designation and all other relevant criteria in the ZDO have been met.



86-06

Boundary of approx. 5 acre Rural Industrial zone change area.
Approved per Z0294-15-CP & Z0295-15-ZAP

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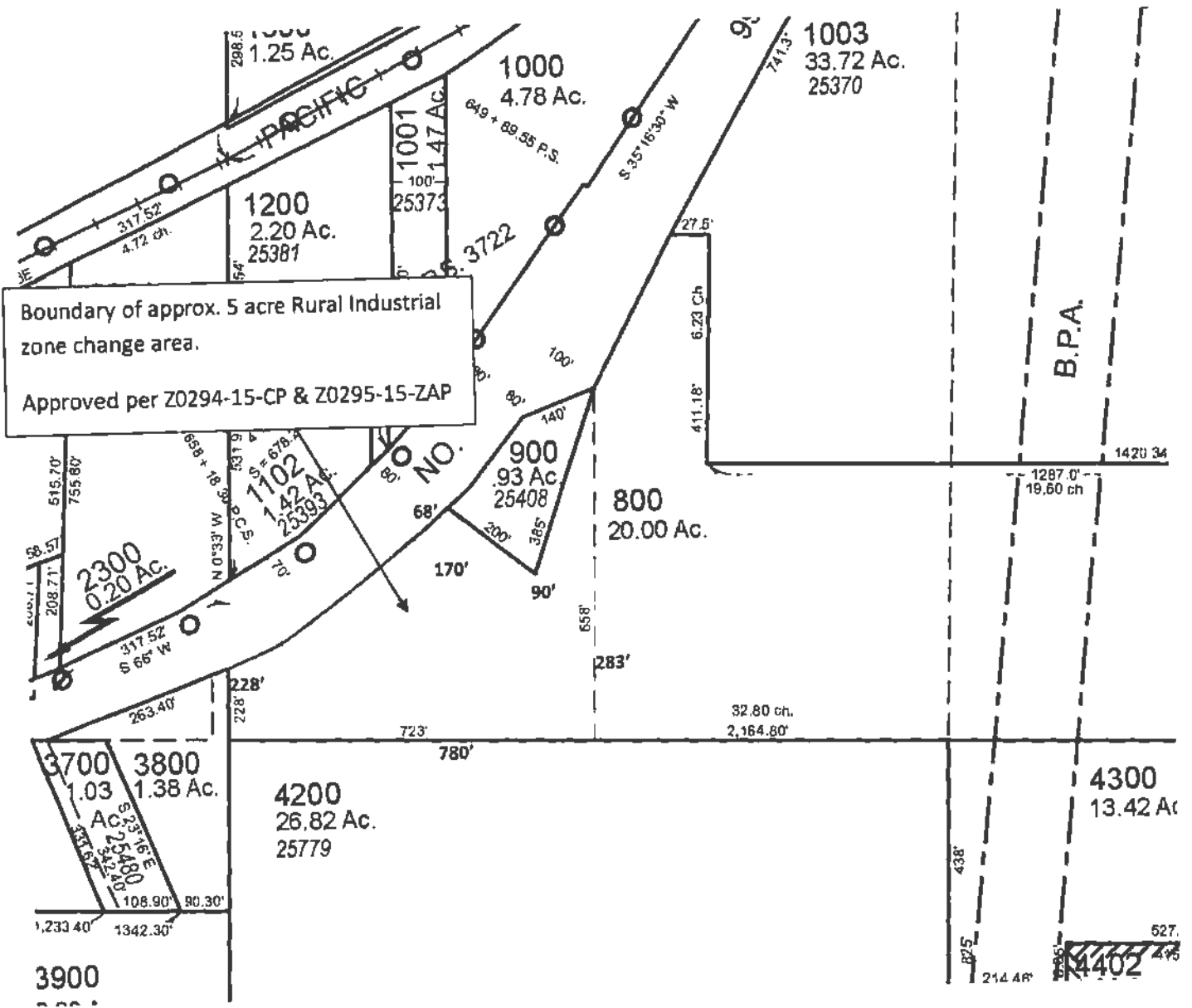
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File Nos. Z0294-15-CP and Z0295-15-Z
 Board of County Commissioners, Clackamas County
 ORDER EXHIBIT B (2/25/2016)