



Oregon
Theodore R. Kubongoski, Governor

Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

6/15/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Benton County Plan Amendment
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 29, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Chris Bentley, Benton County
Jon Jinings, DLCD Community Services Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE
STAMP

DEPT OF
JUN 15 2010
LAND CONSERVATION
AND DEVELOPMENT
For Office Use Only

Jurisdiction: **BENTON COUNTY**

Local file number: **LU-09-085**

Date of Adoption: June 1, 2010

Date Mailed: June 3, 2010

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 1/27/10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Change zone from Exclusive Farm Use to Agricultural Industrial (AI). Property is currently used as a vineyard and operates a winery by conditional use permit. Changing to AI would allow a winery as an outright permitted use, and a dwelling for employer or employee of the industrial use. Applicant proposes text changes to AI zone as an overlay for this parcel only to limit uses to wine-related uses and exclude vehicle-related uses. Specific text language has not been proposed.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: Agriculture

to: Industrial

Zone Map Changed from: **EFU**

to: **AI**

Location: 22937 Harris Road, Philomath, Oregon, Benton County

Acres Involved: 1.00

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No



FORM **2**

DLCD

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In person electronic mailed

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DEPT OF

JUN 09 2010

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AND DEVELOPMENT**

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Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: Residential

to: Commercial

Zone Map Changed from: RR-5

to: C

Location: 22937 Harris Road, Philomath, Oregon, Benton County

Acres Involved: 1.00

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 001-10(18089) [(6161)]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Chris Bentley, Senior Planner**
Address: **360 SW Avery Avenue**
Fax Number: **541-766-6891**

Phone: **541-766-6819** Extension: **6293**
City: **Corvallis** Zip: **97333**
E-mail Address: **chris.bentley@co.benton.or.us**

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the Benton County Comprehensive Plan Map and Zoning Map.)))	ORDINANCE No. 2010-0235
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WHEREAS, the applicant, Nathan Warren, submitted an application for a Comprehensive Plan Map Amendment, Zoning Map Amendment, and Goal Exception on December 24, 2009, for a 1-acre portion of parcel identified as Township 11 South, Range 6 West, Section 30, Tax Lot 1200; and

WHEREAS, the requested action would change the property's designation on the Benton County Comprehensive Plan Map from Agriculture to Agricultural Industrial, and would change the property's designation on the Benton County Zoning Map from Exclusive Farm Use to Agricultural Industrial with a Use Overlay zone; and

WHEREAS, the requested action would cause an exception to Statewide Planning Goal 3 to be adopted into the Benton County Comprehensive Plan; and

WHEREAS, the Benton County Planning Commission held a duly advertised public hearing on March 16, 2010, and voted to recommend that the Board of Commissioners approve the Zoning Map Amendment, Comprehensive Plan Map Amendment and Goal Exception; and

WHEREAS, the Benton County Board of Commissioners held a duly advertised public hearing on April 27, 2010, to consider the request; and

WHEREAS, the Board of County Commissioners finds that the proposed Map Amendments comply with the criteria of Benton County Code 53.505 through 53.525 and Oregon Administrative Rules 660-004-0018, 660-004-0028 and 660-012-0060, and are consistent with the applicable policies and procedures of the Comprehensive Plan; and

WHEREAS, the Benton County Board of Commissioners has considered the staff report, the application materials, the testimony of witnesses, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the application for a Comprehensive Plan Map and Zoning Map Amendment and Goal Exception, and conducted the First Reading of the proposed Ordinance on April 27, 2010; and

WHEREAS, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on June 1, 2010.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to the Zoning Map and Comprehensive Plan Map.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the Zoning Map and Comprehensive Plan Map pursuant to ORS Chapter 215 and the Benton County Charter.

PART III. The Zone Change Application No. LU-09-085 is hereby approved, based on the Findings and Conclusions contained in the attached "Exhibit 4" and hereby adopted and incorporated herein.

PART IV. Benton County Comprehensive Plan Map is hereby amended to identify the property described on the attached "Exhibit 1" as Industrial. This property is also shown on the map and property description in "Exhibit 2".

PART V. Benton County Zoning Map is hereby amended to identify the property described on the attached "Exhibit 1" as Agricultural Industrial with a Use Overlay. This property is also shown on the map in "Exhibit 2".

PART VI. A Use Overlay shall be applied to the subject property, with the following effect:

Permitted Uses. All uses listed in BCC 76.105 shall be allowed except farm vehicle and attachment sales, and warehousing of products not related to the farm product being processed on the property.

Conditional Uses. All uses listed in BCC 76.205 shall be allowed as conditional uses.

Siting Standards. Structure size shall be limited to a structure or structures totaling no more than 10,000 square feet.

The text of Chapter 76 (Agricultural Industrial Zone) of the Benton County Development Code shall be modified to reflect the Use Overlay adopted for the subject property. The modifications are shown in "Exhibit 3".

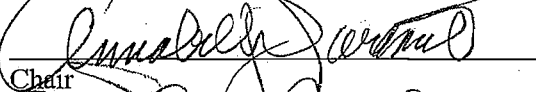
PART VII. The effective date for these amendments to the Benton County Comprehensive Plan Map and Zoning Map will be:

First Reading: April 27, 2010

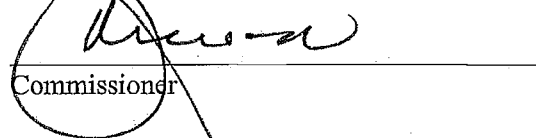
Second Reading: June 1, 2010

Effective Date: July 1, 2010

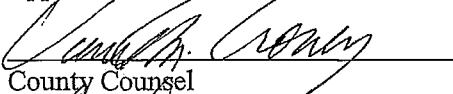
BENTON COUNTY BOARD OF COMMISSIONERS


Chair


Commissioner


Commissioner

Approved as to Form:


County Counsel

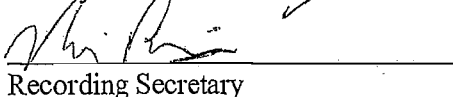

Recording Secretary

Exhibit 1

Legal Description of Zone Change Area
Warren Zone Change; File No. LU-09-085

The following described real property in the County of Benton and State of Oregon:

**ZONE CHANGE LEGAL DESCRIPTION
FOR**

NATHAN DOUGLAS WARREN

MAY 20, 2010

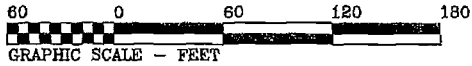
A portion of that certain property conveyed to Nathan Douglas Warren per Document No. 2003-338860, lying in the Southeast 1/4 of Section 30 and the Northeast 1/4 of Section 31, Township 11 South, Range 6 West, Willamette Meridian, Benton County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod at the intersection of the northerly right-of-way line of the Southern Pacific Railroad, and the easterly right-of-way line of County Road No. 16520 (Harris Road), also being the southwest corner of the most northerly tract as described in the first paragraph of said Warren document; thence along said County Road right-of-way line, N 00°37'56"E 168.02 feet; thence leaving said right-of-way line S 45°47'00"E 415.83 feet; thence S 44°13'00"W 121.70 feet to said northerly right-of-way line of the Southern Pacific Railroad; thence along said right-of-way line N 45°47'00"W 300.00 feet to the point of beginning; containing 1.00 acre, more or less.

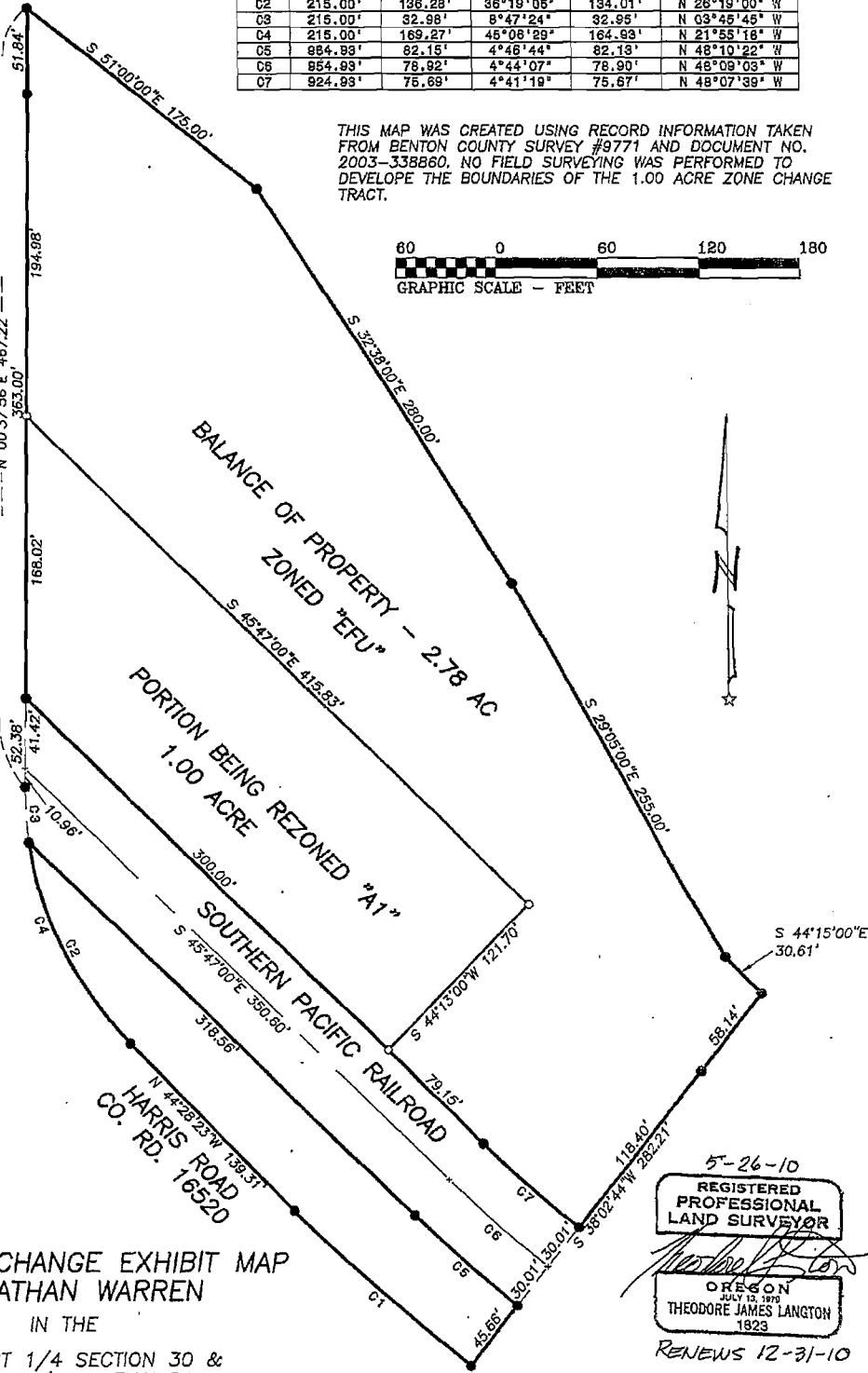
The courses depicted in the previous legal description have been based upon Benton County Survey No. 9771.

Curve	Radius	Length	Delta	Chord	Chord Bear.
C1	1080.00'	140.12'	7°26'01"	140.02'	N 48°11'24" W
C2	215.00'	136.28'	36°19'05"	134.01'	N 26°19'00" W
C3	215.00'	32.98'	8°47'24"	32.95'	N 03°45'45" W
C4	215.00'	169.27'	46°08'29"	164.93'	N 21°55'18" W
C5	884.93'	82.15'	4°46'44"	82.13'	N 48°10'22" W
C6	854.93'	78.92'	4°44'07"	78.90'	N 46°09'03" W
C7	924.93'	75.69'	4°41'19"	75.67'	N 48°07'39" W

THIS MAP WAS CREATED USING RECORD INFORMATION TAKEN FROM BENTON COUNTY SURVEY #9771 AND DOCUMENT NO. 2003-338860. NO FIELD SURVEYING WAS PERFORMED TO DEVELOPE THE BOUNDARIES OF THE 1.00 ACRE ZONE CHANGE TRACT.



HARRIS ROAD - CO. RD. 16520



ZONE CHANGE EXHIBIT MAP FOR NATHAN WARREN

IN THE

SOUTHEAST 1/4 SECTION 30 &
NORTHEAST 1/4 SECTION 31,
TOWNSHIP 11 SOUTH, RANGE 6 WEST,
WILLAMETTE MERIDIAN,
BENTON COUNTY, OREGON

MAY 20, 2010

5-26-10
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 12, 1973
THEODORE JAMES LANGTON
1923

RENEWS 12-31-10

NORTHSTAR SURVEYING, INC.

720 N.W. 4th Street
Corvallis, Oregon 97330
Phone: 541-757-9050

Exhibit 1

Legal Description of Zone Change Area
Warren Zone Change; File No. LU-09-085

The following described real property in the County of Benton and State of Oregon:

Insert legal description of one-acre portion of subject property.

Exhibit 2

Map of Zone Change Area
Warren Zone Change; File No. LU-09-085

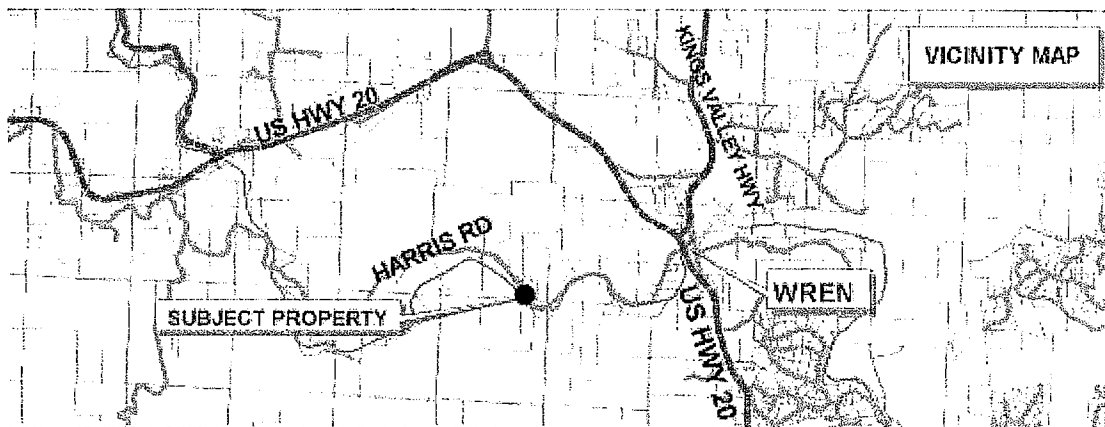
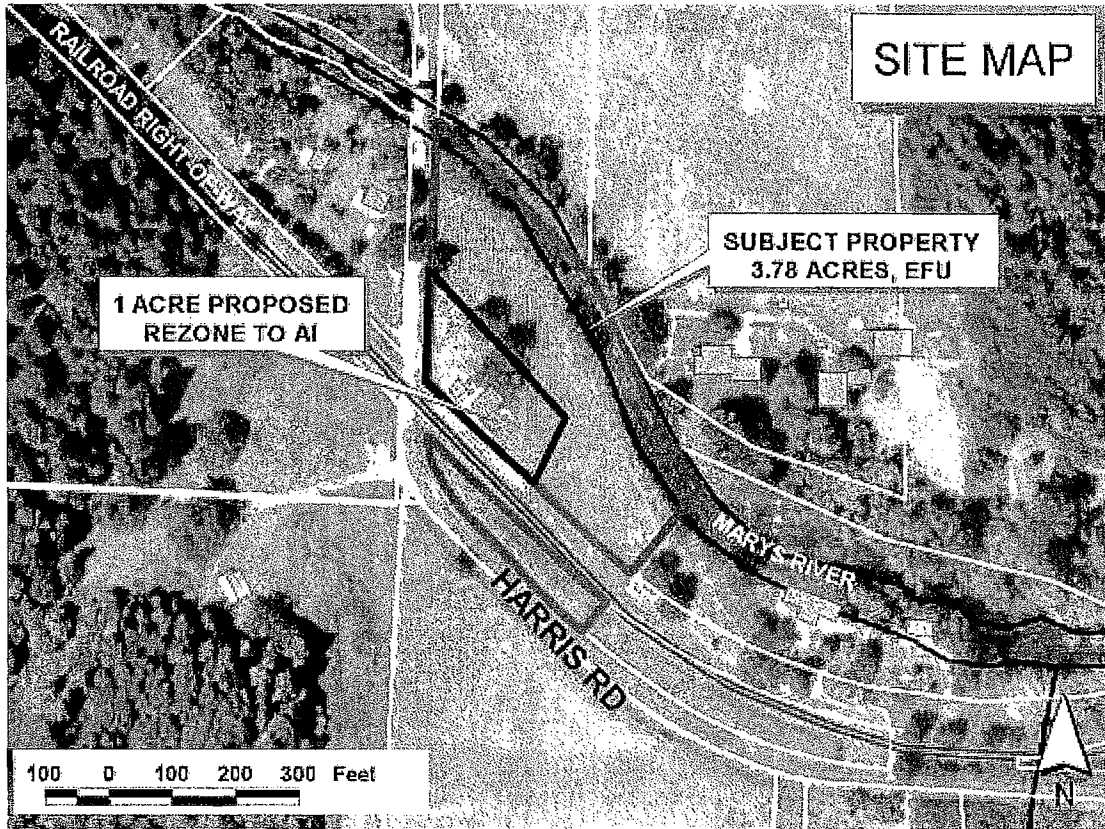


Exhibit 3

Development Code Text Amendment to Implement Use Overlay
Warren Zone Change; File No. LU-09-085

[New Text is Underlined.]

Chapter 76

Agricultural Industrial (AI)

76.005 Purpose. The Agricultural Industrial Zone shall provide areas where rural industry directly related to the area's agricultural and forestry resources can occur within Benton County. [Ord 26, Ord 90-0069, Ord 90-0077]

76.010 Application. The Agriculture Industrial Zone is applied to areas forestry and agricultural related industrial uses compatible with agriculture uses. Application of the Agricultural Industrial Zone to land designated for resource use by the County Comprehensive Plan shall require a Comprehensive Plan Amendment and an exception to applicable Statewide Planning Goals. [Ord 26, Ord 90-0069, Ord 90-0077]

76.015 Transitional Areas - Philomath. Certain areas near the Philomath Urban Growth Boundary are zoned Agricultural Industrial/Transitional (AI/T) as shown on the Official Zoning Map, indicating that these areas may be added to the Philomath Urban Growth Boundary in the future. [Ord 26, Ord 90-0069]

76.020 Use Overlay Zone. A Use Overlay Zone designation (/U) is applied to areas that have special restrictions on permitted and conditional uses. Uses on these properties have been restricted to comply with the requirements for Exceptions to Statewide Planning Goals (OAR 660-004-0018) or other specified rules and statutes. Permitted and conditional uses within a Use Overlay Zone are listed in the ordinance(s) listed below, and supersede those listed in this Chapter. All other provisions of this Chapter are applicable. Use Overlay designations have been applied to the following areas:

(a) Harris Road Agricultural Industrial Site – Ordinance 2010-0235.

76.105 Permitted Uses. The following uses are allowed in the Agricultural Industrial Zone:

- (1) Agriculture related warehousing, packing, processing, or cold storage.
- (2) Sales, service, and storage of agriculture related vehicles and accessories and products required for farm use.
- (3) Winery.
- (4) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (5) Farm use.
- (6) Forest use.
- (7) Accessory use or structure. [Ord 26, Ord 90-0069]

76.205 Conditional Uses. The following industrial uses may be allowed in the Agricultural Industrial Zone by conditional use permit approved by the Planning Official. [Ord 90-077]

- (1) Other agricultural related industrial uses which are not permitted pursuant to BCC 76.105.
- (2) The primary processing of forestry products including but not limited to the production of wood chips, veneer, or dimensional lumber. [Ord 90-0077]
- (3) The warehousing of forest products including but not limited to the storage of saw logs, dimensional lumber, other primary wood products or wood by-products. [Ord 26, Ord 90-0069, Ord 90-0077]

76.305 Minimum Parcel or Lot Size. The minimum parcel or lot size in the Agricultural Industrial Zone shall be one (1) acre. [Ord 26, Ord 90-0069, Ord 96-0118]

76.405 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Agriculture Industrial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 76.410 and other provisions of this code. [Ord 90-0069]

76.410 Siting Standards. All structures located in the Agriculture Industrial Zone shall be sited in compliance with BCC Chapter 99 and the following standards:

- (1) Either every site shall be adequately served by water, sewage disposal, improved roads, or final approval of the site development plan shall be contingent on assurances for the provision of the necessary facilities.
- (2) A setback to a road right-of-way shall be at least sixty (60) feet, of which twenty-five (25) feet adjacent to the road right-of-way shall be utilized exclusively for landscaping, fences, walls, and ingress/egress driveways.
- (3) A side or rear setback shall be at least thirty (30) feet, except the setback may be reduced to ten (10) feet if the abutting land is zoned for industrial use.
- (4) Architectural features shall not project more than two (2) feet into a required setback.
- (5) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (6) No setback is required for a structure of 120 square feet or less. Except when adjacent to a residential zone, a required side or rear setback for an accessory structure may be reduced to three (3) feet if the accessory structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (7) A vision clearance area shall be maintained at the intersection of two rights-of-way or a right-of-way and a driveway. The vision clearance area shall extend thirty (30) feet from the intersection of the right-of-way lines or a right-of-way line and a driveway. No structure,

vegetation or embankment shall be permitted in a vision clearance area in excess of two feet in height above the center of the road or driveway.

(8) Off-site parking and loading shall comply with BCC 91.604 to 91.660.

(9) Access shall be designated to cause minimum interference with traffic movements on abutting streets. Where necessary, additional rights-of-way shall be dedicated to maintain adequate traffic circulation.

(10) The arrangement of buildings, parking areas, signs and other facilities shall be designated and oriented to minimize noise and glare relative to adjacent properties.

(11) Artificial lighting, including illuminated signs and lights for parking areas shall be arranged and constructed to avoid direct glare or unreasonably interference with the use or enjoyment of adjacent properties. [Ord 26, Ord 90-0069, Ord 92-0092]

Exhibit 4

Findings of Fact and Conclusions of Law Warren Zone Change; File No. LU-09-085

A. GENERAL FINDINGS

The applicant proposes to change the zone of one acre of his 3.78-acre parcel from Exclusive Farm Use (EFU) to Agricultural Industrial. The applicant's stated plan is to operate a winery with an on-site dwelling.

The subject property lies between the Marys River, Harris Road, and Union Pacific railway right-of-way.

Northeast of the property, across the river, is land zoned EFU, used for agriculture and a residence. To the northwest, across Harris Road, is a 2.63-acre parcel zoned EFU, the location of the historic Charles King House, an 1880 residence that has been recognized by placement on the Benton County Register of Historic Places and the National Register of Historic Places. Spanning the Marys River on Harris Road is the Harris Covered Bridge, also listed on the local and national registers. Southeast of the subject property is a 4.47-acre parcel with a residence, and to the south are farm and forest uses under Forest Conservation zoning.

Soils on the subject property are mapped as Conser Silty Clay Loam (Cs, Map Unit Symbol 52), a Class IIIw-1 soil with a moderate to high shrink-swell capacity and low permeability. According to the 2005 Soil Survey of Benton County Area, Oregon, these soils are poorly drained silt loams and silt clays that formed in alluvium and floodplains, suitable for a wide range of shallow-rooted crops when well drained. Conser IIIw soils are considered farmlands of statewide importance and are high-value soils.

Applicant's Proposal

The applicant proposes re-zone one (1) acre of his 3.78-acre parcel from Exclusive Farm Use to Agricultural Industrial (AI). This property, purchased by the applicant in 1999, is the site of a vineyard and wine-making operation, Harris Bridge Winery, established by the applicant Nathan Warren and his wife Amanda Sever. In 2002 the applicant constructed a 3,000 square foot structure that is currently being used for wine-making and storage. This facility was subsequently granted approval as an agricultural processing facility via Administrative Review (LU-06-038).

The applicant has stated that, in order to effectively manage his vineyard and business, he and his family would like to reside on-site. In the AI zone a dwelling **"required for the employer or employee for management or safeguarding of the industrial use"** is an outright permitted use.

Also allowed outright in the AI zone is a winery, defined as “a structure where grapes or other produce may be processed and converted to wine, bottled, blended, stored and sold ... a tasting room where incidental wine related paraphernalia may be sold.” In the EFU zone a winery is permitted subject to review by the Planning Official, and is subject to stricter standards of vineyard acreage. The applicant’s business does not qualify as a winery under the EFU standards, which require a minimum of 15 acres of vineyard on-site. For this reason the applicant, in 2002, applied for a Conditional Use Permit, which was approved for a wine-tasting room at this location. Several conditions were placed upon the 2002 approval. If the proposed rezoning is approved, the winery as defined above will be an outright use and will no longer be subject to the conditions of approval from the 2002 Conditional Use Permit. Any elements of that Conditional Use Permit that are not included within the definition of “winery” or otherwise allowed in the AI zone will be considered as nonconforming uses. Any such uses that were approved by the CUP but which have not been established will not be allowed under the AI zoning.

In addition, the applicant proposes a limited use overlay for his potential AI property, which would:

- Prohibit farm vehicle and attachment sales, and
- Prohibit warehousing of goods not related to the farm product produced and processed on-site, and
- Limit overall square footage to 10,000 square feet.

Business operations at Harris Bridge Winery consist of: growing and harvest of grapes; transport of the grapes to commercial freezers off-site; transport of the pressed juice back to the site; then fermentation, filtering, aging, bottling and labeling on-site. The product, a dessert wine, is stored on-site and distributed from this location. Wines are also sold through the on-site tasting room, open weekends May through November.

B. GOAL EXCEPTION FINDINGS

To change the zoning from Exclusive Farm Use to Agricultural Industrial requires an exception to Goal 3 be taken pursuant to Oregon Administrative Rules (OAR) Chapter 660, Division 4. OAR 660-004-0000(2) states that “an exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals.... The documentation for an exception must be set forth in a local government’s comprehensive plan.” Thus, if the exception is approved, the Board of Commissioners action will amend the Comprehensive Plan to include the Goal Exception Findings.

Oregon land use law allows three types of goal exceptions: developed, committed, and “reasons”, and the applicant has proposed that the subject property qualifies for a Goal 3 exception under the “physically developed” and “committed” criteria.

<p style="text-align: center;">Part 1: OAR 660-004-0025 Exception Requirements for Land Physically Developed to Other Uses</p>
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(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

The applicant states *"The following are the physical developments that took place on the land, beginning with the Railroad's purchase in 1884. The Union Pacific Railroad built a railroad side track on the land in question to support the industrial activity of the sawmill that existed in Harris valley through the mid-1940's. The construction of the railroad side-track involved laying down many tons of large rock, and the installation of railroad ties, rails, and spikes. This development rendered the land incapable of being farmed due to the amount of rock that was installed to support the side-track. In addition, the engines that operated on the sidetrack dripped oil and other contaminants into the soil, permanently damaging its potential for farming activity. When the mill that the side-track was intended to support ceased operations, the side track was removed. The removal of the side-track involved removing the railroad ties, rails, and spikes; however, the rock was not removed. The rock that once formed the base of the side track was spread out, leaving a thick layer of rock just under the topsoil. This physical development of a thick layer of rock prohibits normal root development, and makes the land incapable of being farmed.*

In the early 1900s, a saw-mill was located on the southeastern section of the property. A road leading from Harris Road followed the railroad side-track and led to the mill. This road was composed of large rock, similar to the large rocks used in foundation of the railroad side-track. The years of vehicular travel on this road had compacted the rock into the soil, leaving the land incapable of being farmed. When the mill ceased operations in the mid 1940s, the road was abandoned, but not removed, permanently damaging the farming potential of the land where it was located."

Findings: The Board of Commissioners concurs with the applicant in noting the historic uses of this property as well as the more recent addition of agricultural buildings to support the vineyard/winery operation. This one-acre portion of land appears to be occupied, to a great extent, by buildings, parking, and circulation improvements.

In addition, it could be argued that, because the 1-acre re-zone site was physically developed by a use allowed under Goal 3, the property cannot then be said to be physically developed such that it is no longer available for uses allowed under Goal 3.

Analysis and Conclusion, Part 1 (Land Physically Developed to Other Uses): While it is impossible to determine the extent of contamination and depth of gravel on this site, it is reasonable to assume that, as a past location of sawmill and railroad track this area has been rendered less suitable for farming activities than other areas owned by the applicant that are more

distant from the road and railway. Present-day observation and historic records investigation supports the applicant's claim that past industrial uses have negatively impacted this one-acre portion of his property.

However, the Board of Commissioners concludes that the site has been developed with a use (agricultural processing, wine-making) that is in fact allowed by Goal 3. Therefore, the physically developed exception is not warranted. **This criterion is not met.**

Part 2: OAR 660-004-0028
Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable....

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

- (a) The characteristics of the exception area;
- (b) The characteristics of the adjacent lands;
- (c) The relationship between the exception area and the lands adjacent to it; and
- (d) The other relevant factors set forth in OAR 660-040-0028(6) (below)

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource-protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible". For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203; [Note: The referenced OAR, edited for applicability, reads: "...the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops ... "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. ... "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. ..."]

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a

statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area. [emphasis added]

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

- (a) Existing adjacent uses;
- (b) Existing public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns of the exception area and adjacent lands:
 - (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;
 - (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.
- (d) Neighborhood and regional characteristics;
- (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;
- (f) Physical development according to OAR 660-040-0025; and
- (g) Other relevant factors.

Findings: To summarize, the administrative rule stipulates that a goal exception is justified if the characteristics of the exception area and adjacent lands, the relationship between the exception area and adjacent lands, and other relevant factors render farm or forest uses impracticable. (Note: A winery supported by a vineyard smaller than 15 acres is not defined as a “farm use” by Benton County Code and Oregon Statute. The applicant’s vineyard is 3 acres in size, and is approved as an agricultural processing facility.)

The Oregon Court of Appeals has further clarified that “the fundamental test for an irrevocable commitment exception...requires surrounding areas and their relationship to the exception area to be the basis for determining whether the exception is allowable. (*DLCD v. Curry County*, 151 Or.App. 7, 947 P.2d 1123) “...[T]o give exclusive or ‘preponderant’ weight to the characteristics of the exception area alone...would be contrary to [that fundamental test].” In other words, the focal point of the justification must be that the relationship between the subject property and adjacent lands somehow commits the resource land to non-resource use.

The applicant states *“The land in question was owned by the railroad from 1884 through 1999. The very small original parcel size was dictated by the industrial needs of the time, not farming needs. The size of the parcel was made large enough to support the establishment of a sidetrack rail line to support the sawmill that was on the adjacent property. During the time the land was owned by the railroad, physical developments were made that make the land unsuitable for farming. Therefore, according to OAR 660-004-0028 section 6 (c), the land is irrevocably committed.*

It is important to note that Nathan and Amanda are applying for the smallest section possible (1.00 acre) to be changed from the Exclusive Farm Use to the Agricultural Industrial zone in order to preserve the remaining land that is still farmable for farm use.”

Regarding the subject property’s relationship to adjacent lands, the applicant states *“The proposed Agricultural Industrial site is isolated from adjacent lands by rights-of-way, a road, a railroad, a river, and a vineyard that is owned and operated by the applicants. This separation defines the relationship between the exception area and adjacent lands. This separation also defines why, historically, this land was used for industrial and other support roles in the community including a saw-mill, a loading and staging yard, a school, residences, and several other non-farm uses. The parcel of land is very small, and it is split by a 60 foot wide Railroad right of way.”*

The Board of Commissioners concurs that the property proposed for rezone is partially occupied by structures, and appears to be the repository of quantities of gravel, indications that reflect the historic use of this site as a railroad side-track and sawmill. In fact, this site was once within the settlement of Harris, which enjoyed its boom years from 1917 – 1929, and featured three sawmills, a school, dance hall, general store, and post office, clustered near the intersection of road, railroad, and river.¹ Although historical use patterns are not considered a justification for zone change, they do point to a time when this community featured residential, resource, commercial, and industrial uses.

¹ Nellie Stark, et al., *Memories of Wren, Oregon*, (Philomath: Wren Historical Society, 1998), 149-159.

Analysis and Conclusion, Part 2 (Land Irrevocably Committed to Other Uses): To recapitulate, the County must find that farm use and forestry activities are rendered impracticable due to the character of surrounding lands and their relationship to the subject property (primary factor), and due to conditions of the subject property and other relevant factors (secondary factors).

The standard of “impracticability” is not tied to return on investment or commercial levels of production, but rather to whether the uses included in the definition of farm use are capable of being put into practice.² Even at this higher standard, it would be hard to find that production of agricultural crops or livestock is practicable on this one-acre site. The subject property is currently occupied by agricultural buildings and graveled parking areas, allowed farm uses that are required for the applicant to conduct his business on-site. These improvements when combined with the small size and the legacy of past modifications of the site, would make it very difficult to convert the subject property to agricultural production. These structures represent farm uses other than crop production that are clearly not “impracticable”; however, development of the vineyard commits the one-acre proposed re-zone area to support of the agricultural use.

The zone change is proposed for purposes of establishing an owner residence to support continued operation of the existing vineyard and winery. Because wine production is considered “processing” of crops, its resulting product may not be considered in authorizing a farm dwelling via income test. The applicant has noted that if the value added product of the vineyard could be considered a qualifying factor, he could qualify for an income test farm dwelling. This is a fine point of distinction in income test dwellings: only income from the “sale of farm products” can be considered. In the applicant’s case, this would be grapes, but not wine.

The applicant has noted that grape cultivation and winemaking are activities that are best managed by an on-site manager, a viewpoint supported by observation of other vineyard/winery operations in the area. Adjacent property owners have expressed the belief that the security of their own properties would be enhanced by the presence of an on-site manager at Harris Bridge Winery. This sentiment reflects the existing residential pattern of this resource-zoned land, in which five (5) dwellings exist within a quarter-mile of the subject property. Rather than impede the continued resource use of surrounding lands, rezoning this property to AI and allowing a manager to reside on-site is likely to have a positive effect on the surrounding lands, given the context of residential and resource use.

The Board of Commissioners concludes that while farm use in its broadest definition is not impracticable on this property, as evidenced by the existing processing facility, the growing of crops on this one-acre portion is impracticable. The adjacent vineyard and neighboring properties are likely to experience enhanced productivity and security due to the presence of an on-site manager for the vineyard/winery business.

The distinguishing features of this site are its intrinsic limitation for farm use and its isolation from other farmable lands. The property is small, irregularly configured, and degraded (from a

² According to Webster’s II New Riverside University Dictionary: “*Impracticable* applies to that which is not capable of being carried out or put into practice. *Impractical* refers to that which is not sensible or prudent. A plan may be *impractical* because it involves undue cost or effort and yet it may not be *impracticable*.” From this understanding, agricultural activities aimed at obtaining gross receipts may be practicable in many instances where it might not be practical to undertake farming with the intent of making a living at it or obtaining a net profit.

farming perspective) by past land uses. Any attempt to farm this land in conjunction with nearby farmland would be extremely difficult due to the intervening road, railroad, river, houses, and the load-limited historic bridge. In sum, the relationship of the subject property to surrounding lands is one of isolation and no complementarity. The only viable type of use for this property that is apparent is for a small-scale, intensive, vertically integrated enterprise such as the applicant proposes – to use the small acreage on-site to produce a raw material and then use industrial or semi-industrial means to process, distribute and retail the product. The Board of Commissioners concludes that such use is not viable under Goal 3 or Goal 4 and therefore, this property is irrevocably committed to uses not allowed by Goal 3 or 4. **This criterion is met.**

Conclusion, Part 2 (Goal Exception Criteria): The Board of Commissioners concludes that a goal exception has been justified – the site is developed and committed to uses other than agriculture.

C. FINDINGS FOR PLANNING AND ZONING FOR EXCEPTION AREAS

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. **Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule. [emphasis added]**

(2) For "physically developed" and "irrevocably committed" exceptions to goals, plan, and zone designations shall authorize a single numeric minimum lot size...

Findings: The application proposes “physically developed” and “irrevocably committed” exceptions. The proposed zoning is Agricultural Industrial, which has a minimum parcel size of one (1) acre.

...and shall limit uses, density, and public facilities and services to those:

(a) Which are the same as the existing land uses on the exception site; or

Findings: Uses will not be limited to the existing land uses, but may include a dwelling; therefore, (b) below must be met.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

Findings: Because the zone change would allow changes from the existing use on the subject property, through the potential addition of a dwelling, the provisions of this section apply. Agricultural Industrial is the zone proposed for the subject property. In the AI zone, BCC Chapter 76, the following uses are permitted outright:

- 1) Agriculture related warehousing, packing, processing, or cold storage.
- 2) Sales, Service, and storage of agriculture related vehicles and accessories and products required for farm use.
- 3) Winery. *(Note: Winery, as defined in BCC 51.020(77) reads: "a structure where grapes or other produce may be processed and converted to wine, bottled, blended, stored and sold. "Winery" includes a tasting room open to the public where wine may be sampled and purchased and where incidental wine related paraphernalia may be sold.")*
- 4) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- 5) Farm use.
- 6) Forest use.
- 7) Accessory use or structure.

The applicant is proposing a Use Overlay to the AI zone for this property, limiting square footage of all structures (total) to 10,000 square feet; prohibition of "sales, service and storage of agriculture vehicle related accessories and products related to farm use"; and limiting warehousing to products produced on this site. Although no square footage limitations exist for facilities in the AI zone, the applicant's proposed square footage limitation of 10,000 square feet is within the size limitation of 35,000 square feet found in the Rural Industrial zone. The Rural Industrial zone, which in 2007 was modified to be consistent with the concept of "Rural Land" contains the same provision for a dwelling for management or safeguarding of the industrial use as is contained in the Agricultural Industrial zone.

Analysis and Conclusion: The uses allowed through this zone change can be limited if a Use Overlay is simultaneously adopted. This has been done in three previous zone changes. The Use Overlay is applied to, and is specific to, the subject property. The overlay specifies which uses can occur in that particular instance of the AI zone, and includes any other limitations (such as size of structures) that apply.

Considering the relatively small size of the area proposed for re-zone, and the comparison to square footage allowed in the Rural Industrial zone, the proposed zone change accompanied by a Use Overlay imposing the limitations noted above would maintain the property as "Rural Land". **Through adoption of a Use Overlay, this criterion is met.**

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses

Findings: The proposed AI use of a residence will be similar to and compatible with the nearest uses, which are residences on small-acreage resource land and farm and forest production. The pattern of other resource uses in the vicinity is such that separation and interdependency make it unlikely that uses on the subject property will commit them to nonresource use. Furthermore, the Use Overlay will ensure that other uses allowed at the site are uses already allowed in the EFU zone.

The applicant notes that *"Fire suppression, law enforcement, and road maintenance are the primary public services available in the vicinity. No additional public services or facilities are*

needed to serve the site.” These services are currently provided to this site. Presence of an on-site manager could potentially reduce the need for law enforcement and fire suppression on this property.

Conclusion, Part 3, (Planning and Zoning for Exception Areas): The proposed zone and potential addition of a dwelling will not commit nearby resource land to nonresource use, and is compatible with adjacent resource uses, with the addition of a Use Overlay as proposed. This criterion is met.

D. FINDINGS APPLYING THE TRANSPORTATION PLANNING RULE

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

- (a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;**
- (b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;**
- (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or**
- (d) Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.**

(2) A plan or land use regulation amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility;**
- (b) Changes standards implementing a functional classification system;**
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or**
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.**

Findings: The subject property takes direct access to Harris Road, a resource collector in the Benton County road system. The proposed zone change and Comprehensive Plan map amendment could potentially result in one new residence accessing that road. It is not anticipated that this would result in a level of travel or access inconsistent with the functional classification of any county road, nor would such use reduce the performance standards of any facility below the minimum level identified in the County’s transportation plan.

The applicant states “Currently, the caretakers for Harris Bridge drive approximately 7,000 miles per year commuting to and from the farm from their residence in Corvallis. This generates approximately 500 trips (to and from), or 250 occurrences of travel to the farm down Harris Road related to the need to work the farm on which they do not live. Through approval of this

application, which would ultimately result in the caretakers living at the farm, many of the trips generated by commuting to the farm would be eliminated.

... The applicants are not proposing any changes to the commercial activity currently taking place on the farm as a part of this rezone application. The changes being proposed relate only to the industrial uses of the land and the opportunity for an overseer residence on the property. Therefore, it is expected that approval of this application would have no impact on the travel down Harris Road related to commercial activity."

Benton County Public Works Engineer Associate Andrew Monaco has commented that in the event this re-zone is approved, the applicant will likely be required to improve a proportionate share of Harris Road as a condition of approval of a dwelling.

Conclusion (Transportation Planning Rule): The proposed plan amendment would not significantly affect a transportation facility, and the requirements of subsection (1) do not apply. Any road improvements necessary to mitigate increase in traffic will be conditions of development plan approval. **The Board of Commissioners finds this criterion is met.**

D. FINDINGS APPLYING DEVELOPMENT CODE CRITERIA and COMPREHENSIVE PLAN POLICIES

53.505 Zone Change Criteria. The Official Zoning Map may be amended if:

(1) The proposed zoning for the property is more appropriate than the current zoning, when considering existing uses, changes in circumstances since the current zoning was applied, or information that indicates that the current zoning was not properly applied;

Findings: The applicant states *"The Union Pacific Railroad owned the site when it was first zoned EFU. There is no documentation that research was done at the time this rezone took place to prove the farming potential of this parcel of land or align the zone with the historical uses of the land. Due to historical uses, including a railroad sidetrack and a sawmill, this land is irrevocably committed to non-farm uses. This land has not been farmed since it was deeded to the railroad in 1884 to be used for industrial purposes."*

It is correct that the property has been in industrial use for many years, either associated with the railroad or sawmill. There is no evidence or history of the land having been put to farm or forest use. Modifications to the property during its industrial use, namely the addition of crushed rock, would make farm use much more difficult to establish. The site is not viable to farm.

By contrast, the applicant finds that the site is better-suited to industrial use. It fronts on a resource collector road, and is located in immediate proximity to the vineyard which it supports. For these reasons, the applicant concludes the site is better suited to industrial zoning than to farm zoning.

Analysis and Conclusion: The subject property is not well-suited to agricultural uses of crop production. The types of uses most likely to work at this site (indeed, the uses that have occurred here in the past) are industrial in nature. Under farm zoning, the focus is on agricultural use;

industrial use can occur if it is tied to agriculture. Under AI zoning, agriculture-related industrial use is the purpose of the zone. The proposed AI zone would allow a dwelling related to the industrial use, which appears to be appropriate for the ongoing operations of the vineyard/winery. For these reasons, the Board of Commissioners concludes that the Agricultural Industrial zone is more appropriate for the subject property than is the current EFU zone. **This criterion is met.**

(2) The impact on adjacent properties will be minimal;

Findings: In his application narrative, the applicant addresses impacts upon adjacent properties, and explains why they will be minimal: they have existed to date with no negative impacts; the separation of the property from neighbors by roads, river, and railroad; the orientation of the building in which wine-making activities occur at the rear of the building and in the basement. Letters from area residents indicate that the presence of an on-site manager would be a welcome addition to this property from their viewpoints, and no negative impacts of the existing use have been mentioned.

The subject property is located adjacent to two structures significant in Benton County history: the Harris Covered Bridge, and Charles King House. Both structures are listed in the Benton County and National Registers of Historic Places, and represent the last remnants of the original settlement of Harris. The addition of built elements to the applicant's property has the potential to create negative visual impacts to the existing cluster of historic structures. Because the role of the Benton County Historic Resources Commission (HRC) on the applicant's property is limited to advisory guidance only, it is recommended that the applicant inform the HRC of proposed new structures as well as additions and alterations to structures on-site, and the HRC will recommend measures to mitigate potential negative visual impacts to the existing historic structures. These advisories will be in the form of suggestions and recommendations only, and will carry no legal requirement for compliance.

Analysis and Conclusion: The applicant's proposed re-zoning is unlikely to have substantial impacts to neighboring properties. A Use overlay that limits this instance of the AI zone would remove the potential for an incompatible use being established. The Board of Commissioners concludes that impacts will be minimal. **This criterion is met.**

(3) Any significant increase in the level of public services which would be demanded as a result of the proposed zone change can be made available to the area; and

Findings: Public services provided include law enforcement, fire suppression and roads. There will not be a significant increase in the demand for law enforcement or fire suppression. Road impacts were discussed under Section 4 of this report. Any necessary improvements to roads occasioned by the addition of a dwelling or increase in building footprints will be determined at the time of the site development plan review.

Currently the property is served by on-site sewage disposal and water, the sewage consisting of a holding tank, allowed in commercial applications only. If a dwelling is authorized, the applicant will need to prove adequate water supplies and an on-site septic drainfield.

Conclusion: Public service increases are not significant and can be made available to the area. **This criterion is met.**

(4) The proposed zone change is consistent with the policies of the Comprehensive Plan.

Findings: The applicant has addressed several Comprehensive Plan policies in his narrative, found in Attachment A. These policies include support of local agriculture, encouragement of home based business, facilitation of sustainable economic development, and promotion of tourism. The Board of Commissioners concurs with the applicant's findings regarding the cited Comprehensive Plan policies.

In addition, the Wren Community Plan, adopted by reference to the Comprehensive Plan, establishes goals and policies developed in partnership with the community of Wren. The community of Wren consists of exception lands located along Highway 20, in addition to the larger community of Wren, as described in the Plan. Harris Bridge Winery lies in the larger community of Wren, and is therefore subject to Policy 8: **"Benton County shall recognize the efforts of the community to support forestry, farming and home based businesses as the primary industries of the Wren community."** A farm-based business, providing a value-added product, with a vertically integrated production system would be in compliance with this policy. The Wren Citizens Advisory Committee determined that the proposal was consistent with this policy.

Analysis and Conclusion (Consistency with Benton County Code and Comprehensive Plan Policies): The proposed re-zone is consistent with Development Code requirements and Comprehensive Plan policies. **The Board of Commissioners concludes that these criteria are met.**

E. FINDINGS FOR AMENDING THE COMPREHENSIVE PLAN MAP

Chapter V of the Benton County Comprehensive Plan contains the procedures and criteria for amending the Comprehensive Plan Map:

Map amendments may be considered when compliance with all elements of the Comprehensive Plan and with statewide land use planning goals can be shown and a public need exists for the proposed amendment.

Map amendments requiring goal exceptions shall comply with procedure and standards of OAR 660 Division 4 and State goals.

Findings: Compliance with the elements of the Comprehensive Plan is addressed in Section D(4), above; compliance with the statewide goals is addressed in Sections B, C, and D, above.

Conclusion: The proposed Comprehensive Plan Map amendment from Agriculture to Industrial is consistent with the Comprehensive Plan and statewide goals. **This criterion has been met.**

F. SUMMARY AND CONCLUSION

The Board of Commissioners' findings and conclusions are:

Goal Exception Criteria: The inability to put the subject property to farm use by itself, and the lack of adjacent complementary use combine to make farm use impracticable. Forest use is impracticable due to the small size, and proximity of other uses.

⇒ The Board of Commissioners concludes that an “irrevocably committed” goal exception has been justified.

Planning and Zoning for Exception Areas (OAR 660-004-0018): The proposed rezoning will be consistent with the rural status of the area (if a Use Overlay is included), will not commit additional resource land to nonresource use, and will be compatible with nearby resource uses.

⇒ The Board of Commissioners concludes that the proposed zone would be appropriate for the rural area.

Compliance with Transportation Planning Rule: The applicant has stated that a dwelling for on-site management of the existing business is desired, and has proposed capping overall square footage at 10,000 square feet by applying a Use Overlay.

⇒ Based on the information submitted at this time, the Board of Commissioners concludes the proposed zone change complies with the provisions of the Transportation Planning Rule (OAR 660-012-0060).

Development Code Zone Change Criteria: The proposed zoning is more appropriate than the current zoning, and impact on adjacent properties will be minimal.

⇒ The Board of Commissioners concludes that the proposal meets the Development Code criteria for zone change.

Criteria for Amending the Comprehensive Plan Map: Consistency with Comprehensive Plan policies and statewide goals has been demonstrated.

⇒ The Board of Commissioners that these criteria have been met.

Overall Conclusion: A goal exception has been justified, and the criteria for zone change and Comprehensive Plan Map amendment have been met. Therefore, the Board of Commissioners approves the request.