



Oregon

Theodore R. Kulongoski, 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

7/1/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment
DLCD File Number 005-10

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: Friday, July 16, 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: Sandy Ingalls, Clackamas County
Jon Jinings, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative

<paa> YA

Notice of Adoption



**THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: **Clackamas County**

Local file number: **Z0729-09-CP Z0730-09-ZAP**

Date of Adoption: **June 17, 2010**

Date Mailed: **June 17, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one**Date:

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".

1. The applicant requests approval of a Comprehensive Plan map amendment from Rural to Rural Commercial, and a corresponding zone change from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RC (Rural Commercial).
2. This request complies with the applicable provisions of the Statewide Goals, the Clackamas County Comprehensive Plan and Zoning and Development Ordinance.
3. This Board adopts as its findings and conclusions those portions of the Planning Staff Report/Recommendation which found the application in compliance with applicable criteria.
4. The Comprehensive Plan and Zoning amendments were approved, subject to the following Conditions of Approval.
 - A. Any development of the subject property shall be limited to a maximum total of 2 (two) PM peak hour trips. This trip cap will remain in effect until either acceptable intersection operation is restored at the intersection of Highway 211 at Highway 224, or until capacity improvements sufficient to offset the additional site trips from a proposed development on the site are constructed as part of the development proposal.
 - B. A deed indentifying this development restriction shall be approved by the County and recorded in the Clackamas County Deed Records. A copy of the recorded document shall be submitted to this Planning file within 30 days of the date that this decision becomes final.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Rural**

to: **Rural Commerical**

Zone Map Changed from: **RRFF-5**

to: **RC**

Location: **28598 SE Hwy 224, Eagle Creek, OR**

Acres Involved: **1.02**

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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. _____

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

Local Contact: **Sandy Ingalls**

Phone: (503) 636-2428 Extension:

Address: **Clackamas County, Planning Division, 150 Beaver Creek Rd** Fax Number: 503-742-4550

City: **Oregon City**

Zip: **97045**

E-mail Address: **sandying@co.clackamas.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist.**

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

JUN 21 2010

In the Matter of a Comprehensive
Plan Amendment and Zone Change
for David E. & Diana L Helm, on property
described as T2S R4E Section 30, Tax
Lot 1201



ORDER NO. 2010-72

File No.: Z0729-09-CP / Z0730-09-ZAP

This matter coming regularly before the Board of County Commissioners, and it appearing that David E. & Diana L Helm made application for a Comprehensive Plan Amendment from Rural to Rural Commercial and a corresponding zone change from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RC (Rural Commercial) on the property described as T2S R4E, Section 30, Tax Lot 1201, located on the West side of State Hwy. 224, approximately 0.05 miles north of its intersection with SE Glover Road.

It further appearing that the planning staff, by its report dated May 3, 2010, recommended approval of the application with conditions of approval; and

It further appearing that the Planning Commission at its May 10, 2010 public hearing, recommended approval of the application based on the findings and conditions in the planning staff report.

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on June 9, 2010, at which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 9, 2010;

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

1. The applicant requests approval of a Comprehensive Plan map amendment from Rural to Rural Commercial, and a corresponding zone change from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RC (Rural Commercial).
2. This request complies with the applicable provisions of the Statewide Goals, the Clackamas County Comprehensive Plan and Zoning and Development Ordinance.
3. This Board adopts as its findings and conclusions those portions of the Planning Staff Report/Recommendation which found the application in compliance with applicable criteria.

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

In the Matter of a Comprehensive
Plan Amendment and Zone Change
for David E. & Diana L Helm, on property
described as T2S R4E Section 30, Tax
Lot 1201

ORDER NO. 2010-72
(Page 2 of 2)

File No.: Z0729-09-CP / Z0730-09-ZAP

NOW THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive Plan Amendment and Zone Change are approved, and that the site (T2S R4E ,Section 30, Tax Lot 1201) is subject to the following Conditions of Approval.

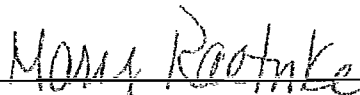
1. Any development of the subject property shall be limited to a maximum total of 2 (two) PM peak hour trips. This trip cap will remain in effect until either acceptable intersection operation is restored at the intersection of Highway 211 at Highway 224, or until capacity improvements sufficient to offset the additional site trips from a proposed development on the site are constructed as part of the development proposal.
2. A deed identifying this development restriction shall be approved by the County and recorded in the Clackamas County Deed Records. A copy of the recorded document shall be submitted to this Planning file within 30 days of the date that this decision becomes final.

DATED this 17th day of June, 2010

BOARD OF COUNTY COMMISSIONERS



Chair, Board of County Commissioners



Recording Secretary



CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND USE AND ENVIRONMENTAL PLANNING DIVISION
150 Beavercreek Rd, Oregon City, OR 97045
Phone: (503) 742-4500

NAME: David E. & Diana L Helm
FILE NO: Z0729-09-CP, Z0730-09-ZAP
REPORT AUTHOR: Sandy Ingalls
HEARING DATE: May 10, 2010 (PC), June 9, 2010 (BCC)
REPORT DATE: May 3, 2010

**PLANNING STAFF REPORT/RECOMMENDATION
TO THE PLANNING COMMISSION**

GENERAL INFORMATION:

Applicant: David E. & Diana L Helm, 20575 SE High Ridge Ct., Damascus, OR 97089

Owner: Same

Proposal: Comprehensive Plan Map Amendment from Rural to Rural Commercial.
Corresponding zone change from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RC
(Rural Commercial).

The primary uses allowed within the proposed RC zoning district are listed in Section 505.03 of the Clackamas County Zoning and Development Ordinance (ZDO) and include accounting and tax services, banks, credit unions, barber and beauty shops, contractors, feed and garden stores, insurance agents, museums, taverns, telephone co-ops and veterinary services. A copy of the RC zoning district is included in Exhibit 9

Location: West side of State Hwy. 224, approximately 0.05 miles north of its
intersection with SE Glover Road.

Legal Description: T2S, R4E, Section 30, Tax Lot 1201; W.M

Site Address: 28598 SE Hwy 224, Eagle Creek, OR 97022

Comprehensive Plan Designation: Rural

Zone: RRFF-5

Total Area Involved: Approximately .91 acres.

RECOMMENDATION:

1. Approval of the Comprehensive Plan Map Amendment from Rural to Rural Commercial with a condition limiting the number of peak hour trips (File No. Z0729-09-CP).
 2. Approval of the zone change from RRFF-5 to RC (File No. Z0729-09-ZAP).
-

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICE PROVIDERS

Background Information:

1. Violations: This application is the outcome of a violation of the zoning code. There were previous non-conforming use permits approved for various commercial uses on site; see the discussions below under number 3. The last non-conforming use permit expired when the commercial use no longer operating for a continuous period of 12 months.
2. The subject property is located outside of the Eagle Creek area an unincorporated Rural Community. See Exhibit 3.
3. Prior Land Use Applications:
 - a. File No. 632-86-E: Approval of an Alternation of a Nonconforming Use application to change the nonconforming commercial use of a building from an upholstery business and, most recently, equipment storage to a fishing tackle and bait shop.
 - b. File No. 508-87-E: Approval of an Alternation of a Nonconforming Use application to change the nonconforming commercial use of a building from a fishing tackle and bait shop to retail used furniture store.
 - c. File No. Z0869-99-PLA: A Property Line Adjustment involving the properties described as T2S, R4E, Section 30 W.M., Tax Lots 1200 and 1201.
 - d. File No. Z0265-01-E: Approval of an Alternation of a Nonconforming Use application to: (1) verify if a nonconforming use for a second-hand merchandise retail store has been established and maintained; and (2) and alternation of the nonconforming use to permit expanded sales of additional merchandise and an outdoor display area.

- e. In a letter, dated January 31, 2007 (Exhibit 13), written by the Planning Director, explains that the site has lost its “non-conforming use” status, because the use lapsed for more than one year. The Planning Director states that *“It appears that the non-conforming use of this property has expired, which would make commercial use on the property inconsistent with the RRFF-5 zoning.”*
4. Site Description: The subject property is approximately 0.91 acres and irregular rectangular shaped (Exhibit 4). The property is presently developed with a structure that has been used for numerous commercial purposes, parking lot and circulation system, well and septic system (Exhibits 3 and 5). The property is very level. The property has approximately 330’ of frontage on Hwy. 224, which is designated as a major arterial.
5. Surrounding Conditions: The adjacent properties to the north, south and west on the west side of Highway 224 are zoned RRFF-5 (Exhibit 4). This area consists of parcels ranging from approximately 1 acre to 15 acres in size. Most of the parcels are developed with single family dwellings (Exhibit 3).

The properties to the northeast, across Highway 224, range in size from 13.23 to 23.17 acres (Exhibit 4) and are zoned EFU (Exclusive Farm Use). These properties are developed and in farm use (Exhibit 3).

The area east and across Highway 224, consists of two tax lots approximately 0.82 acres and 4.06 acres zoned RRFF-5 (Exhibit 4). These properties are developed with single-family dwellings (Exhibit 3).

6. Service Providers:
 - a. Sewer: The subject property is not located within a public or private sewer district. Sewage disposal will be accommodated by an on-site sewage disposal system.
 - b. Water: The subject property is not located within a public or private water district. Domestic water is provided from an on-site well.
 - c. Surface Water: Surface and storm water is regulated pursuant to Section 1008 of the ZDO.
 - d. Fire Protection: Boring Fire District #59
7. Responses Requested:
 - a. Estacada School District
 - b. Boring Fire District #1
 - c. Eagle Creek CPO
 - d. DTD, Community Environment
 - e. DTD, Traffic Engineering

- f. DTD, Office of Sustainability
- g. Water Environment Services, Soils Division
- h. Oregon Dept. of Transportation
- i. Dept. of Land Conservation and Development
- j. Property Owners within 500'

CPO Recommendation: The subject property is located in the Eagle Creek Citizen Planning Organization (CPO). The CPO has submitted comments recommending denial of the application due to traffic and safety concerns and the isolation of the property from other rural commercial areas (Exhibit 10).

Exhibits: See Exhibit List following the last page of this report.

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Section 1. Comprehensive Plan Map Amendment. This application is subject to compliance with the Statewide Planning Goals, County Comprehensive Plan (CP) policies and Oregon Administrative Rules (OARs).

Part 1 – Evaluation of Statewide Planning Goals.....Page 4
 Part 2 – Evaluation of General County Comprehensive Plan Policies..... Page 11
 Part 3 – Evaluation of Rural Residential and Rural Commercial Plan Designation Policies..... Page 20
 Part 4 – Summary of Findings for the Comprehensive Plan Map Amendment ...Page 23

Section 2. Zone Change Application. The zone change application is subject to the criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance.

Part 1 – Evaluation of criteria in Section 1202.....Page 24
 Part 2 – Summary of Zone Change Criteria.....Page 26

Section 3. Recommended Conditions of Approval.....Page 26

**SECTION 1- COMPREHENSIVE PLAN MAP AMENDMENT
FROM RURAL TO RURAL COMMERCIAL**

PART 1. COMPLIANCE WITH STATEWIDE PLANNING GOALS:

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

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public

notification. This application has been processed consistent with the notification requirements in Section 1300 including notice to individual property owners within 500 feet of the subject property, notice in the local newspaper, and notice to affected agencies, dual interest parties and to the Community Planning Organization in the area. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input.

The proposal is consistent with Goal 1.

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

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments; Estacada School District, Boring Fire District, Oregon Dept. of Transportation (ODOT), and the Department of Land Conservation and Development (DLCD).

The subject property is not located within any Urban Growth Management Areas (UGMA) of any nearby or surrounding cities. Therefore this application does not affect any other adopted City Comprehensive Plans.

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

This proposal is consistent with Goal 2.

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

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

Goal 3 is not applicable.

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

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

Goal 4 is not applicable.

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

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

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

The proposal is consistent with Goal 5.

- F. **Goal 6; Air, Water and Land Resources Quality:** *To maintain and improve the quality of the air, water and land resources of the state.*

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

This application is consistent with Goal 6.

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

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

This application is consistent with Goal 7.

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

recreational facilities including destination resorts.

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

Goal 8 is not applicable.

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

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

OAR 660-009 (Industrial and Commercial Development) implements Goal 9. Pursuant to OAR 660-009-0010(1) the requirements and standards in OAR 660-009 are only applicable to areas within urban growth boundaries and does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Therefore OAR 660-009 is not applicable.

Generally, approval of this application will increase the inventory of commercial land available for rural commercial uses.

This application is consistent with Goal 9.

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

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

The subject property is located outside of the Portland Metropolitan Urban Growth Boundary. Therefore OAR 660-007 is not applicable to this proposal. This proposal will have no significant affect on the inventory of rural housing because the proposed rural commercial zoning district allows one single family dwelling on the property in conjunction with a primary (commercial) use.

This application is consistent with Goal 10.

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

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

OAR 660-011-0060 and OAR 660-011-0065 regulates the provisions for, and the extension of sewer and water service to rural lands, respectively. The subject property is not located within a public sewer district. Sewage disposal will be accommodated by an on-site sewage disposal system. The subject property is not serviced by a public water district. Domestic water will be provided by an on-site well.

Storm drainage is subject to the requirements in Section 1008 of the Clackamas County Zoning and Development Ordinance and will require on-site detention and treatment. This proposal will not impact any public storm drainage facilities.

The property is also appropriately located within the service boundaries of Boring Fire District #59, Waste Management of Oregon and Clackamas County Sheriff's District.

This application is consistent with Goal 11.

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

1. Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.
2. OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) requires any amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility to demonstrate 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.
3. Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;
 - a. *Changes the functional classification of an existing or planned transportation facility;*

- c. *Changes standards implementing a functional classification; or*
- c. *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - 1. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
 - 2. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
 - 3. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
- 4. Compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;
 - a. *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
 - b. *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
 - c. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - d. *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
 - e. *Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.*
- 5. The applicant has submitted a Traffic Impact Study (TIS) (Exhibit 18) and a memo dated April 16, 2010 (Exhibit 15) addressing the impacts from this

proposal. The impact area for this proposal the Hwy 224 / Hwy 211 intersection and Hwy 224 / site access intersection. Both these intersections are State facilities and under the jurisdiction of the State of Oregon (ODOT).

6. The Oregon Dept. of Transportation (ODOT) staff has submitted comments on this proposal. See Exhibits 14 and 16. The Oregon Highway Plan requires the affected transportation system to operate at a volume to capacity (v/c) ratio of .80. The Hwy 224 / site access intersection is currently operating at a .01 v/c ratio and will continue to operate at an acceptable level (v/c ratio of .08) in the 20 year planning period. The Hwy 224 / Hwy 221 is currently operating at an acceptable level of service with a v/c ratio of 1.13 and will continue to operate at an unacceptable ratio in the 20 year planning period. This intersection can only operate acceptably with installation of a signal. A signal is not planned or funded for this intersection. In order to comply with the TPR the applicant has proposed a condition that will not “worsen” the performance of the transportation facility. The applicant is recommending that *“any redevelopment of the subject property be limited to a maximum total of 2 (two) PM peak hour trips. This trip cap will remain in effect until either acceptable intersection operation is restored at the intersection of Highway 211 at Highway 224, or until capacity improvements sufficient to offset the additional site trips from a proposed development on the site are constructed as part of the development proposal.”* The ODOT staff agrees that this condition will satisfy the TPR.
7. There are no County transportation facilities within the impact area of this proposal.
8. There is substantial evidence in the record demonstrating this proposal can comply with the TPR and Goal 12, with a condition limiting the number of P.M. peak hour trips for future development.

This application is consistent with Goal 12.

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

This proposal will have no impact on any known or inventoried energy sites or resources. There are no planning or implementation measures under this Goal applicable to this application.

Goal 13 is not applicable.

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

The subject property is located outside of the Metropolitan UGB and the UGB of all nearby cities. This proposal does not involve a change in the location of the UGB, a conversion of rural land to urban land, or urbanizable land to urban land. (The

property is not located within the recently designated urban or rural reserve areas). There are no planning or implementation measures under this Goal applicable to this application.

Goal 14 is not applicable.

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

The subject property is not located within the Willamette River Greenway.

Goal 15 is not applicable.

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

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

PART 2. COMPLIANCE WITH CLACKAMAS COUNTY COMPREHENSIVE PLAN POLICIES:

- A. **Chapter 1; Introduction:** *This Chapter identifies the purpose of the Comprehensive Plan and how to use the Plan.*

This Chapter of the Plan includes a general introduction to the plan and describes how to use the plan. This Chapter does not include any Goals or Policies applicable to a quasi-judicial land use application.

Chapter 1 is not applicable.

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

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

Policy 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 the Citizen's Planning Organization in the area (Eagle Creek CPO), to

property owners within 500 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 hold one or more public hearings, as necessary, consistent with Section 1303 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process.

This application is consistent with Chapter 2.

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

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

1. Water Resources: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Wetlands and Groundwater.
 - a. River and Stream Corridors and Principal River and Stream Conservation Area Policies: There are no river or stream corridors identified on the River and Stream Conservation Area map located on or near the subject property.
 - b. Habitat Conservation Areas: The subject property is not located in any designated Habitat Conservation Areas.
 - c. Water Quality Resource Areas: The subject property is not located in any designated Water Quality Resource Areas.
 - d. Wetlands: There are no wetlands identified on the National Wetland Inventory on or near the subject property.
 - e. Groundwater: The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources.
 - There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
2. Agriculture: This application does not involve any land planned or zoned for Agricultural uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

3. Forests: This application does not involve any land planned or zoned for Forest uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
4. Mineral and Aggregate Resources: The subject property is not identified on the “Inventory of Mineral and Aggregate Resource Sites” in Table III-2 of the Comprehensive Plan. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
5. Wildlife Habitats and Distinctive Resource Areas: There are no significant wildlife habitats or scenic areas identified on Map III-2 of the Comprehensive Plan located on or near the subject property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
6. Natural Hazards: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The subject property is not located within a designated floodplain. The subject property is included on DOGAMI maps. There are no natural or geologic hazards, steep slopes or other natural hazards. The property is located in an area containing “wet soils – high water table”. This could present some limitations for development and obtaining septic approval. However, the soil characteristics are a limiting factor for the development under the existing plan designation as well as the proposed commercial plan designation and will need to be addressed in any future development proposals. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

7. Energy Sources and Conservation: There are no policies in this Section applicable to this application.
8. Noise and Air Quality. There are no policies in this Section applicable to this application.

This application is consistent with Chapter 3.

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

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

1. Urbanization Section. This Section of the Plan outlines policies guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas and Urban Reserve Areas.

The subject property is not within an urban growth boundary, future urban area, future urban study area or urban reserve area. There are no policies in this Section of the Plan applicable to this application.

The Urbanization policies are not applicable.

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

The Urban Growth Concept policies are not applicable.

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

The specific plan policies for the Rural and Rural Commercial plan designations in Chapter 4 are evaluated in Part 3 of this report.

Based on the findings in Part 3 and 4 of this report the Rural Commercial plan designation is the most appropriate plan designation on the subject property. This application is consistent with Chapter 4.

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

This Chapter contains six (6) distinct Sections addressing; 1) Roadways; 2) Transportation Demand Management; 3) Parking; 4) Transit; 5) Pedestrian and Bicycle Facilities and; 6) Freight, Rail, Air, Pipelines and Water Transportation. Each of these Sections is addressed below.

1. Roadways. The purpose of this Section is to create and maintain a safe, continuous County-wide road system that accommodates movement by all modes. The adopted County Roadway Standards are also used to ensure a safe and adequate road system.

A. Policy 14.0, Access Standards are applicable to this application.

1. Policy 14.0: *Plan and control access onto roads within the County, as shown on Table V-5, for urban areas and according to the American Association of State Highway and Transportation Officials (AASHTO) guidelines for rural areas, for both new and existing uses, and coordinate with the Oregon Department of Transportation for access control on state highways. Access standards need to be applied in a flexible manner that maintains reasonable access to property when access cannot be denied.*

2. The subject property has frontage on State Hwy. 224, which is classified as a major arterial. The safety of the transportation system and access to the property is subject to the requirements of the ODOT and Oregon Highway Plan because Hwy. 224 is a state highway. An existing driveway off of Hwy. 224 provides access to the subject property. ODOT reviewed the Traffic Impact Study and had no comments about the existing access. The TIS states the “*site access intersection on Highway 224 is currently operating acceptably and is projected to operate acceptably through 2029 with or without full development under the proposed zone change. No operational mitigation is recommended.*” The existing access to the property for commercial use is acceptable to the ODOT.

This policy is met.

2. Transportation Demand Management. This Section outlines strategies to achieve efficiency in the transportation system by reducing demand and vehicle miles traveled.

There are no policies in this Section of the Chapter applicable to this application.

3. Parking. This Section of the Chapter outlines policies for parking standards to meet the Region 2040 Growth Concept Plan, Transportation Planning Rule and DEQ's Air Quality Maintenance Plan.

There are no policies in this Section of the Chapter applicable to this application.

4. Transit. This Section of the Chapter outlines policies for accommodating transit services and facilities.

There are no policies in this Section of the Chapter applicable to this application.

5. Pedestrian and Bicycle Facilities. This Section of the Chapter outlines policies for providing pedestrian and bicycle facilities.

There are no policies in this Section of the Chapter applicable to this application.

6. Freight, Rail, Air, Pipelines and Water Transportation. This Section of the Chapter outlines policies applicable to these various travel modes of movement of

people and goods.

There are no policies in this Section of the Chapter applicable to this application.

This proposal is consistent with Chapter 5.

- F. **Chapter 6; Housing:** *The purpose of the Housing element of the Plan is to, "Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010."*

This Chapter includes a variety of policies regarding housing choices, affordable housing, neighborhood quality, urban infill, multifamily residential housing, common wall units, mobile homes and density bonuses for low cost housing and park dedication.

There are no policies in this Section of the Plan applicable to this application.

Chapter 6 is not applicable.

- G. **Chapter 7; Public Facilities and Services:** *The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.*

The Public Facilities Section of this Chapter includes policies regarding Sanitary Sewage Treatment, Water, Storm Drainage, Solid Waste and Street Lighting. The policies regarding Sanitary Sewage Treatment and Street Lighting are not applicable because the property is not located within a public sewer or street lighting district. (Sewage disposal is accommodated by an on-site sewage disposal system (old cesspool). An on-site evaluation for a new sewage treatment system to accommodate a single family dwelling in 2006 was denied. The applicant will be required to demonstrate the property is suitable for an on-site sewage system to accommodate any future commercial uses).

Policies 19.0 - 26.0 under the Storm Drainage Section include a number of policies requiring new development to provide storm drainage, water quality and erosion control plans. The subject property is not located within a public storm water / storm drainage district. Therefore, storm drainage, water quality and erosion control is regulated pursuant to Section 1008 of the Clackamas County Zoning and Development Ordinance. This proposal will not impact any public storm drainage facilities.

Policy 17.0 requires water service purveyors to provide water services for non-urban areas at levels appropriate for non-urban uses. The applicant states that the water is

provided by an on-site well with adequate water to provide the property to accommodate rural commercial use. Therefore; this proposal will not impact any water public water service facility.

The Public Services Section of this Chapter includes policies regarding Fire, Law Enforcement, Education and County Government. The property is located within Boring Rural Fire Protection District #59. All new development will require review and approval by the Boring Fire District consistent with Policy 1.0. The Clackamas County Sheriff Department provides law enforcement services in the area. This proposal will have no additional impact on the school district because no new housing is proposed. The policies regarding County Government are not applicable to this proposal. There are no policies in this Section of the Plan applicable to this application.

This application is consistent with Chapter 7.

- H. **Chapter 8; Economics:** *The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries.*

There are no policies in this Section of the Chapter applicable to this application.

Chapter 8 is not applicable.

- I. **Chapter 9; Open Space, Parks, and Historic Sites:** *The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County.*

The subject property does not include any lands designated as open space or park land. There are no designated Historic Landmarks, Historic Districts or Historic Corridors on or adjacent to the subject property.

Chapter 9 is not applicable.

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

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

Chapter 10 is not applicable.

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

The subject property is not located within the Metro Urban Growth Boundary or within the Urban Growth Management Area of any nearby cities.

In the City, Special District and Agency Coordination Section of this Chapter, Policy 1.0, is applicable. In the Amendments and Implementation Section of this Chapter, Policy 1.0 and 3.0 are applicable.

All appropriate state and local agencies, County divisions, and CPO's have been notified of this proposal as required.

1. City, Special District and Agency Coordination Section

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

Notice of this application has been provided to the following agencies and governments for comments; Estacada School District, Boring Fire District #59, ODOT, and DLCD. This notice and advertised public hearings before the Planning Commission and Board of County Commissioners provide an adequate opportunity for interagency coordination efforts of this plan amendment and demonstrates substantial compliance with this policy.

This policy is met.

2. Amendments and Implementation Section

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

Based on the findings in Part 1 of this report this proposal is consistent with all of the LCDC Statewide Planning Goals.

This policy is met.

- f. 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.

1. 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 DEH LLC. The Land Use Application form has been signed by Dave and Diana Helm, authorizing filing of the application.

This policy is met.

2. 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.

This policy is met.

3. 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 owners within 500 feet of the subject property were notified as required in Section 1303 of the ZDO. The Eagle Creek Barton Planning Organization was notified of the application on March 23, 2010, over 35 days prior to the first scheduled public hearing before the Planning Commission on May 10, 2010.

This policy is met.

This application has been processed consistent with Chapter 11.

PART 3. COMPLIANCE WITH THE RURAL AND RURAL COMMERCIAL PLAN POLICIES IN CHAPTER 4.

The Land Use Chapter of the Comprehensive Plan contains specific policies for determining the appropriate Comprehensive Plan land use designation for property. It is feasible and very common for a particular property to meet the policies and criteria for more than one land use Plan designation. In order to determine the most appropriate Plan designation, staff has evaluated both the policies for the Plan designation being requested (Rural Commercial) as well as the existing Plan designation policies (Rural). This analysis will assist in weighing and balancing the policies to determine the most appropriate Plan designation.

A. **Rural Plan Policies:** The Rural Section of the Land Use Chapter of the Plan identifies the criteria which must be satisfied in order for the Rural Plan designation to be applied to an area. *“Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement, such as small farms, woodlots, or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.”*

The Goals of the Rural Section of the Plan are: 1) *To provide a buffer between urban and agricultural or forest use;* 2) *To perpetuate the rural atmosphere while maintaining and improving the quality of the air, water, and land resources;* and 3) *To conserve open space and protect wildlife habitat.*

1. Policy 1.0 in Chapter 4 of the Rural Section of the Land Use Chapter of the Plan identifies the criteria which must be satisfied in order for the Rural Residential Plan designation to be applied to an area.

a. Policy 1.0: *Areas may be designated Rural if they are presently developed, built upon or otherwise committed to sparse settlement or small farms with limited, if any, public services available.*

1. This criterion does not identify what "Areas" should be used or how it should be defined in the evaluation of this plan policy and remaining plan policies where the word "Areas" is used. The Board of County Commissioners over the years have made various interpretations of this word, ranging from the just the subject property or to include other broadly defined areas around the subject property. The Planning Commission has the policy discretion to decide the appropriate area of consideration.

2. The subject property is currently developed with a small commercial building, parking and circulation area, well and septic system. There is no public sewer, water or surface water services available to the site, and the property is not located within a public water, sewer or surface water district.

3. The adjacent and surrounding properties consist of a mix of rural residential exception lands, agricultural (EFU) and forests (TBR) land. The surrounding area is developed primarily with residential home sites and small farms. There are no public sewer, surface water or water districts in the nearby vicinity.

4. The “area” used for evaluating this policy can be the subject property or a broader area consisting of the adjacent and nearby properties. In either case, this policy is met because the subject property and the adjacent and nearby lands consist of area that are presently developed, built upon or committed to sparse settlement where no public services (sewer, water and surface water) are available.

This policy is met.

- B. **Rural Commercial Plan Policies:** The Rural Commercial Section of the Land Use Chapter of the Plan identifies the criteria which must be satisfied in order for the Rural Commercial Plan designation to be applied to an area. *Rural Commercial lands are those that are outside urban growth boundaries and that are suitable based on specific factors for commercial development on a rural scale.*

The Goals of the Rural Commercial Section of the Plan are: 1) *To provide for the continuation of commercial uses in non-urban areas having an historical commitment to such uses;* and 2) *To implement the goals and policies of this Plan for commercial development in Unincorporated Communities.*

1. Policy 1.0: *“The Rural Commercial plan designation may be applied in non-urban areas to provide for commercial uses that are necessary for, and on scale commensurate with, rural development.”*

The subject property is located in a non-urban area. The Rural Commercial Plan designation and implementing RC zoning district limits the type and scale of uses which are commensurate with rural development. The small size of the property will also ensure the scale of development on the property is rural in nature.

This policy is met.

2. Policy 2.0: *“The Rural Commercial (RC) zoning district implements the Rural Commercial plan designation.”*

If the Comprehensive Plan Amendment is approved the RC zoning district is the only zone designation that can be applied to the property. That zoning district is subject to the criteria in Section 1202 of the ZDO and evaluated in Section 2 of this report.

This policy is not applicable.

3. Policy 3.0: *Areas may be designated Rural Commercial when either the first or both of the other criteria are met:*
 - a. Policy 3.0(a): *“Areas shall have an historical commitment to commercial uses.”*
 1. This criterion does not identify what "Areas" should be used or how it should be defined in the evaluation of this plan policy and remaining plan policies where the word "Areas" is used. The Board of County Commissioners over the years have made various interpretations of this word, ranging from the just the subject property or to include other broadly defined areas around the subject property. The Planning Commission has the policy discretion to decide the appropriate area of consideration. The Planning Staff believes the subject property should be considered as the “area” in the evaluation of this policy. The findings below will also address the nature and type of land uses adjacent and nearby the subject property.
 2. The applicant has indicated that the property does have an historical commitment to commercial uses. The applicant states that *“although the subject property is zoned RRFF-5, there has never been an actual home on the property, nor has it been used of farm or forest use. The property has a 3,600 square foot commercial building on one acre. The building has been used as a retail storefront for a variety of businesses since it was built in approximately 1969”*. See Exhibit 12.
 3. The subject property was originally zoned RA-1 on June 20, 1973. The current RRFF-5 zoning was applied to the subject property on June 28, 1976. The subject property is currently developed with a building which was recognized as a legal non-conforming use, however; it has lost its non-conforming status due to the gap between business uses on site. See Exhibit 13. The Planning Staff does not believe that disqualifies the property from having a historical commitment to a commercial use.
 4. The nonconforming use applications approved by the County in 1986, 1987 and 2001 clearly demonstrate the subject property has been developed with a commercial building since at least 1969. The land use approvals also demonstrate the building has historically been used for a variety of small scale commercial uses.
 5. The adjacent and surrounding properties consist of a mix of rural residential exception lands, agricultural (EFU) and forests (TBR) land. The surrounding area is developed primarily with residential home sites and small farms. The surrounding properties, as discussed above under Policy 11.2, are primarily developed with single-family dwellings, and / or used for small farm and forest uses. There are no commercial uses

adjacent to or in proximity to the subject property. The adjacent and nearby properties have not historically been committed to commercial uses.

6. Based on the above findings, the subject property the subject property is the appropriate “area” to consider in evaluating this policy. The findings demonstrate the “area” has historically been committed to commercial uses because it has been developed with a commercial building since 1969 and the building has been used for a variety of approved commercial uses.

This policy is met.

- b. Policy 3.0(b): *Areas shall be located within an Unincorporated Community.*

The subject property is not located within the boundaries of an Unincorporated Community. See Exhibit 6.

This policy is not met.

- c. Policy 3.0(c): *The site shall have direct access to a road of at least a collector classification.*

The subject property has frontage on State Highway 224, which is designated as a major arterial road. Direct access currently exists to the highway.

This policy is met.

PART 4. SUMMARY OF FINDINGS AND CONCLUSIONS ON COMPREHENSIVE PLAN AMENDMENT

- A. Parts 1-3 in Section 1 of this report outlines and addresses all the policies, standards and criteria found to be applicable to this proposal. These policies and standards range from being very general (i.e. Statewide Planning Goals) to more specific in nature (i.e. Plan Designation Policies). As a result all these policies and standards must be weighed and balanced against this specific land use proposal to determine whether the existing Rural or the proposed Rural Commercial Plan designation is most appropriate plan designation.
- B. Based on the findings in Parts 1-3 of this report, the Rural Commercial Plan designation is the most appropriate plan designation for the following reasons:
 1. The Rural Plan designation complies with the Statewide Planning Goals.
 2. The Rural Plan designation can comply with the Transportation Planning Rule (TPR) with a condition limiting the number of P.M. peak hour trips.

3. The subject property meets both the Rural (Policy 1.0) and Rural Commercial Plan Designation (Policy 3.0a) policies. However the Rural Commercial Plan designation is most appropriate because the property has historically been developed and used for commercial purposes and has not been used for rural residential, farm or forest uses.

SECTION 2- ZONE CHANGE FROM RRRF-5 TO RC

PART 1: COMPLIANCE WITH SECTION 1202 OF THE ZDO

- A. The zone change criteria are listed in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO). Section 1202.01 states that the Hearings Officer shall allow a zone change, after a hearing conducted pursuant to Section 1300, if the applicant provides evidence substantiating the following criteria:

1. **Section 1202.01(A)**: *Approval of the zone change is consistent with the Comprehensive Plan.*

The proposed RC zoning district (Section 505 of the ZDO) implements the Rural Commercial Plan designation. If the Comprehensive Plan map amendment application is approved the subject property will be designated Rural Commercial. Based on the findings in Parts 1-3 and as summarized in Part 4 of this report, the Rural Commercial plan designation is consistent with the applicable Comprehensive Plan policies. Therefore, the proposed RC zoning district is consistent with the Comprehensive Plan.

This criterion is met.

2. **Section 1202.01(B)**: *If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation 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 zoning designations shall be considered.*

The subject property is not located in a public sanitary sewer, surface water management or water district, nor are these services required to support the uses allowed under the proposed RC zoning district.

This criterion is met.

3. **Section 1202.01(C)**: *The transportation system is adequate, as defined in Subsection 1022.07(B) 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 this subsection. For the purpose of this criterion:*

- a. Section 1202.01(C)(1): *The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a twenty-year period beginning with the year that a complete land use application is submitted.*
- b. Section 1202.01(C)(2): *It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.*
- c. Section 1202.01(C)(3): *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*
- d. Section 1202.01(C)(4): *Transportation facility capacity shall be calculated pursuant to Subsection 1022.07(C).*
- e. Section 1202.01(C)(5): *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

The adequacy of the transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. The impacts from this proposal on the transportation system are limited to Hwy. 224 and the intersection of Hwy 224 and Hwy 211, which are State transportation facilities. This proposal will not significantly affect the capacity of any County transportation facilities in the area.

This criterion is met.

- 4. Section 1202.01(D): *The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.*

The adequacy of the State transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Based on those findings, there is substantial evidence in the record demonstrating this proposal complies with the Oregon Highway Plan, with the recommended condition of approval. Those findings are adopted by reference to address this criterion.

This criterion is met.

- 5. Section 1202.01(E): *Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.*

The application materials indicate that this criteria is satisfied because sight

distance is unobstructed in both directions along the frontage of the subject property. ODOT states that the permitted drive demonstrates that sight distance available at the driveway, as long as the vegetation is maintained.

This criterion is met.

PART 2. SUMMARY OF ZONE CHANGE CRITERIA:

A. This application satisfies all the criteria in Section 1202.01 of the ZDO.

SECTION 3 – RECOMMENDED CONDITIONS OF APPROVAL

A. Conditions of approval are recommended at this time.

1. Any redevelopment of the subject property shall be limited to a maximum of 2 PM peak hour trips. This trip cap will remain in effect until either acceptable intersection operation is restored at the intersection of Highway 211 and Highway 224, or until capacity improvements sufficient to offset the additional site trips from a proposed development on the site are constructed as part of the development proposal.

DLCD
ATTN: PLAN AMENDMENT SPECIALIST
635 CAPITAL ST NE, SUITE 150
SALEM OR 97301-2540