PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION
HILLSBORO CIVIC CENTER - SHIRLEY HUFFMAN AUDITORIUM
150 EAST MAIN STREET, HILLSBORO, OR  97123

WEDNESDAY, JULY 19, 2017  PUBLIC MEETING  6:30 PM

Prior to scheduled public hearing items, the Planning Commission schedules time to receive briefings from county staff as work session items. These briefings provide the Planning Commission an opportunity to conduct informal communications with each other, review the agenda, and identify questions they may ask before taking action on the agenda items during the public meeting. No public testimony is taken on work session items.

Following work session briefings, the Planning Commission considers items published in their agenda, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearing portions of the meeting. The public may also speak on any item not on the agenda during the Oral Communications section of the agenda.

Upon request, the county will endeavor to arrange provision of the following services:
  ▪ Qualified sign language interpreters for persons with speech or hearing impairments; and
  ▪ Qualified bilingual interpreters

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. If you need a sign language interpreter, assistive listening device, or a language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) by 5:00 p.m. on the Monday preceding the meeting date.

Andy Back
Planning and Development Services Division Manager
The Planning Commission welcomes your attendance at the Public Meeting. If you wish to speak on a public hearing agenda item or during Oral Communications, please feel free to do so. Time is generally limited to five minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust the actual time limits. However, in fairness to others, we respectfully ask your cooperation on the following:

Please follow sign-in procedures located on the table by the entrance to the auditorium.

- When your name is announced, please be seated at the table in front and state your name and home or business address for the record.
- Groups or organizations wishing to make a presentation are asked to designate one spokesperson in the interest of time and to avoid repetition.
- When more than one citizen is heard on any matter, please avoid repetition in your comments. Careful attention to the previous speakers’ remarks will be helpful in this regard.
- If you plan to present written testimony at the hearing, please bring 15 copies for distribution to Commission members and staff.

PUBLIC MEETING DATES

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Note: Occasionally it may be necessary to cancel or add a meeting date.
PUBLIC MEETINGS BEFORE THE PLANNING COMMISSION
HILLSBORO CIVIC CENTER
SHIRLEY HUFFMAN AUDITORIUM

WEDNESDAY  JULY 19, 2017  6:30 PM

AGENDA

CHAIR:  A. RICHARD VIAL
VICE-CHAIR:  JEFF PETRILLO
COMMISSIONERS:  ED BARTHOLEMY, IAN BEATY, TEGAN ENLOE, DEBORAH LOCKWOOD, ANTHONY MILLS, ERIC URSTADT, AND MATT WELLNER

PUBLIC MEETING (SHIRLEY HUFFMAN AUDITORIUM)

1. CALL TO ORDER

2. ROLL CALL

3. DIRECTOR’S REPORT

4. WORK SESSION

   a. 2017 Long Range Planning Proposed Ordinance
      o Ordinance No. 824 - Quarries

5. ORAL COMMUNICATIONS (Limited to items not on the agenda)

6. PUBLIC HEARING

   a. QUASI-JUDICIAL PLAN AMENDMENT APPLICATION HEARING:

      | Casefile No: 17-237-PA | Community Plan and CPO: CPO 8 |
      | Applicant: Robert Jossy | |
      | Location: South of Highway 26, west of NW Gordon Road and north of NW Redhaven Street | Description: Approximately 6.5 acres |
      | Request: A Plan Amendment to change from Exclusive Farm Use District (EFU) to Agriculture and Forest 5 Acre District (AF-5); requiring an exception to Statewide Planning Goal 3 (Agricultural Land). |

7. **CONSIDERATION OF MINUTES**

a. June 21, 2017

8. **ADJOURN**
WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, JUNE 21, 2017

ALL PUBLIC MEETINGS ARE RECORDED

1. CALL TO ORDER: 6:30 P.M. Shirley Huffman Auditorium

The meeting was called to order by Chair Vial.

2. ROLL CALL (move to agenda item no. 5)


Staff present: Andy Back, Theresa Cherniak, Suzanne Savin, Sambo Kirkman, John Floyd, and Susan Aguilar, Long Range Planning (LRP); and Jacquilyn Saito-Moore, County Counsel.

3. DIRECTOR’S REPORT (move to agenda item no. 2)

Andy Back, Manager for the Planning and Development Services, provided the PC with updates:

- LUT is applying for a Metro 2040 grant to study cumulative transportation impacts and needs in the urban reserve areas.
- Future PC meetings:
  - July 19 – Work session on Quarries, Jossy Plan Amendment, and Ordinance No. 822 - Omnibus ordinance.
  - August 15 – Wireless Facilities and Parking, and possibly two UPAA ordinances (Hillsboro and King City).
4. WORK SESSION

None

5. ORAL COMMUNICATIONS

None

6. PUBLIC HEARING

a. Quasi-Judicial Plan Amendment Application hearing (at the beginning of the public hearing, Commissioner Lockwood recused herself due to a conflict of interest. Commissioner Wellner mentioned that the applicant’s representative was a colleague and friend but indicated the association did not result in a conflict of interest)

Sambo Kirkman, associate planner from the Community Planning group provided a PowerPoint presentation on the Intel at Shaw Street Plan Amendment 17-143-PA. Applicant American Recess, LLC submitted an application requesting to change one parcel from Neighborhood Commercial (NC) to Industrial (IND). Staff discussed how the applicant had adequately demonstrated compliance with applicable policies and standards, and provided a recommendation to the Planning Commission to approve this Plan Amendment.

Oral Testimony for Plan Amendment 17-143-PA

Andrew Tull - 3J Consulting, 5075 SW Griffith Dr, Suite 150, Beaverton representing the applicant – provided information which included the location, and the applicant’s intention to construct a self-storage facility on the site if the plan amendment is approved. Mr. Tull also provided reasons why the PC should approve this request.

Discussion

• Question regarding whether there will be any impacts to natural resources including trees?
  ✔ Mr. Tull indicated the site had no natural resources.
• Question regarding whether there are any green standards adopted in the design and building of project?
  ✔ Mr. Tull stated the proposed design of the building will be addressed at the time of land use review.

Final Vote

Commissioner Petrillo moved to approve the plan amendment based on the evidence in the applicant’s submittal, findings, and recommendation in staff report. Commissioner Wellner seconded motion. **Vote: 6-2-1. Motion passed.**
Commissioner | Vote  
---|---
Bartholemy | Absent  
Beaty | Yes  
Enloe | Yes  
Lockwood | Recused  
Mills | Yes  
Petrillo | Yes  
Urstadt | Absent  
Vial | Yes  
Wellner | Yes  

b. **Ordinance No. 820**

Suzanne Savin, senior planner from the Community Planning group of LRP provided a PowerPoint presentation regarding Ordinance No. 820 – Infill, and distributed information on the Comprehensive Framework Plan for the Urban Area (CFP) Policy 19.

The request that prompted this ordinance originated from the 2016 LRP Work Program and was brought forth by the Washington County Committee for Community Involvement (CCI). This ordinance proposes to amend section 430-72 of the Community Development Code (CDC).

Section 430-72 applies to the development review of attached units, partitions, and subdivisions on R5 and R6 properties that are two acres or less in size. The amendments to this section remove subjective standards and replace them with clear and objective privacy enhancement requirements: a landscape buffer or site obscuring fence. Staff provided an overview of the request from CCI, and the state’s “Needed Housing” rule that requires clear and objective standards for needed housing, and summarized the intent of the ordinance and testimony received.

**Oral Testimony received on Ordinance No. 820**

Oral Testimony including comments from the following:

- Mary Manseau - CCI Code and Ordinance Subcommittee – summarized the intent of the letters submitted as testimony and indicated a revision to one of the letters submitted. Manseau indicated Washington County’s review procedures do not provide a strong design review process and therefore the infill standards are important to provide promised protection. Infill standards for established neighborhoods was a concern. Manseau provided a summary of the City of Lake Oswego’s 2010 adopted infill standards as an example of standards to emulate.

- Laura Grosso – expressed concern regarding clear and objective standards. She also commented on having enough personal space with reference to buffers; more privacy is appealing. Grosso also indicated that imposing more regulations would provide less opportunity for developers regarding R5 and R6 development.
Written Testimony received for Ordinance No. 820
Written testimony included comments from the following parties:
- June 21, 2017 letter from Kathy Stallkamp - CCI
- June 21, 2017 letter from Cindy Thackery - CPO 7
- June 16, 2017 letter from Joy Patterson - CPO 3
- June 16, 2017 letter from CCI Code and Ordinance Subcommittee

Discussion
- Discussed the need for clarification and refinements to Figure 1 of the ordinance.
- Discussion regarding flag lots, division of lots, and partition plats.
- Comment regarding infill sites and properties zoned R5 and R6 not having enough lot space for frontage or storm water improvements. More requirements impose more limits on development.
- Question regarding whether the developer could research the surroundings setbacks of existing development rather than defaulting to the R5 and R6 setback requirements for infill requirements?
- Discussion that infill development is not standard by nature, plus retaining the existing standards for flexibility may be preferable.
- Discussion that there are two public policy issues in conflict: Need housing and infill compatibility with existing neighborhoods.

Final Vote
Commissioner Wellner moved to recommend to the Board of Commissioners (Board) approval of Ordinance No. 820 with refinements to Figure 1 and CFP Policy 19. Commissioner Mills seconded motion. Vote: 5-2-2. Motion passes.

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6. CONSIDERATION OF MINUTES
   a. May 17, 2017
      Commissioner Mills moved a motion to approve the PC minutes from May 17, 2017. Commissioner Wellner seconded. Vote: 6-2-1. Motion passes.
7. **ADJOURN: 8:15 P.M.**

There being no further business to come before the Planning Commission, the meeting was adjourned.

______________________________  ______________________________
A. Richard Vial                Andrew Singelakis
Chairman, Washington County   Secretary, Washington County
Planning Commission           Planning Commission

Minutes approved this __________ day of _________________________, 2017

Submitted by Long Range Staff
Casefile No. 17-237-PA Jossy Plan Amendment

Staff Report and Recommendation
For the Planning Commission Hearing on:
July 19, 2017

PROCEDURE TYPE:  III
CPO:  8

LAND USE DISTRICTS:
Existing:  Exclusive Farm Use (EFU)
Proposed:  Agriculture and Forest 5 Acre District (AF-5)

REQUEST:
The applicant requests a Plan Amendment to change the land use designation on two parcels from the Exclusive Farm Use (EFU) District to the Agriculture and Forest 5 Acre (AF-5) District, requiring an exception to Statewide Planning Goal 3 (Agricultural Land).

BACKGROUND:
Local land use planning is guided by Oregon’s 19 Statewide Planning Goals. Each city and county is required to perform comprehensive planning consistent with the statewide planning goals. The County’s Rural/Natural Resource Plan guides planning for rural areas, incorporating the statewide planning goals applicable to the rural area. In particular this includes Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands), requiring the preservation and maintenance of agricultural and forest lands, known as resource lands. The following land use districts are considered resource lands: Exclusive Forest & Conservation (EFC), EFU, and AF-20.

The proposed plan amendment to change an EFU site with high value soils to AF-5 (a non-resource land use designation) would result in the loss of resource land, specifically agricultural land. This conflicts with Statewide Planning Goal 3 to preserve and maintain agricultural lands. Statewide planning Goal 2 identifies a process for consideration of an exception to a normally applicable Goal, in this case Goal 3, subject to the applicant’s provision of documentation presenting a compelling reason why the Goal should not apply. Goal 2 identifies three types of goal exceptions: (1) reasons necessary to justify an exception, (2) land physically developed to other uses, and (3) land irrevocably committed to other uses.

The applicant is requesting the third type of exception to Statewide Planning Goal 3 (Agricultural Lands), also known as a “committed exception”, to allow for residential dwellings as primary uses on lots within the subject site. On EFU land with high value soil, dwellings are only allowed in conjunction with farm use meeting certain income requirements.

In order for a “committed exception” to be justified, the requirements of Oregon Administrative Rule (OAR) 660-004-0028 must be met. The primary focus of a “committed exception” is on the relationship between the subject property and adjoining uses and why that relationship commits the subject property to uses not
allowed by Goal 3 (Agricultural Lands). The applicant does not need to demonstrate that it is impossible to do any farming but must demonstrate that farm use as defined under state law is impracticable.

RECOMMENDATION:
Based upon the facts and findings provided in this report, staff finds that the applicant has adequately demonstrated compliance with applicable Oregon Statewide Planning Goals, the State Transportation Planning Rule (OAR 660-012-0060), the Goal 2 Exception Process (OAR 660-004), Washington County Rural/Natural Resource Plan Policies and Implementing Strategies, Washington County Transportation System Plan Goals, and the Washington County Community Development Code (CDC) as these apply to Plan Amendments.

Additionally, the applicant has provided necessary evidence of feasibility for provision of adequate services from Tualatin Valley Fire and Rescue, the Washington County Sheriff, and Hillsboro School District, subject to compliance with related requirements determined through any future development application.

Staff finds that the applicant did submit sufficient evidence to prove that an exception to Goal 3 is warranted. Staff therefore recommends the Planning Commission recommend approval of this application to the Board of Commissioners.

State law requires that the Board of County Commissioners make the final decision for plan amendments on resource lands (AF-20, EFU and EFC) and those that propose to take an exception to a Statewide Planning Goal. The Board is scheduled to review this plan amendment request at its meeting on August 22, 2017. The Planning Commission’s recommendation will be provided to the Board at that hearing.

I. APPLICABLE REGULATIONS:
   A. LCDC Statewide Planning Goals 1, 2, 3, 5, 11, and 12
   B. Transportation Planning Rule (OAR 660-012-0060)
   C. Goal 2 Exception Process (OAR 660-004)
   D. Agricultural Lands (OAR 660-033)
   E. Washington County Rural/Natural Resource Plan Policies (and Implementing Strategies): 1, 2, 14, 15, 18, 22, 23, and 26
   F. Washington County Transportation System Plan Goals: 1, 3, 5, 6, 7, 8, 9 and 10
   G. Washington County Community Development Code:
      Section 340 Exclusive Farm Use (EFU)
      Section 348 Agriculture and Forest 5 Acre District (AF-5)
      Section 386 Private Use Airport Safety Overlay District

II. AFFECTED JURISDICTIONS AND AGENCIES:
    Washington County Department of Land Use & Transportation
    Tualatin Valley Fire and Rescue (TVF&R)
    Washington County Sheriff
    Hillsboro School District
    Department of Land Conservation and Development (DLCD)

III. FINDINGS

   A. GENERAL

   Applicant: See page 4-6 of the applicant’s narrative.
Staff: The applicant Robert Jossy requests a Plan Amendment to change the current EFU land use designation of two tax lots to AF-5. The following is an analysis of the subject property and proposal, including the current uses and land use history of the subject site and the surrounding area.

**Property Description**
The two parcels (lots 1100 and 1400) form a triangular shape and total approximately 6.5 acres. The parcels are located east of NW Gordon Road, north of NW Redhaven Street, and south of Highway 26 (Sunset Highway) abutting the highway right-of-way, in the County’s rural unincorporated area. The subject site is vacant with trees buffering both lots from the Sunset Highway right-of-way. The applicant states that in 2016 the site was planted with tall fescue for seed, but was not harvested. Current access to the parcels is from NW Redhaven Street, a private street. Figure 1 shows the location of the subject site.

**Land Use History**
The applicant’s narrative provided a description of the site’s history that impacted the current pattern of parcels in this area. However, it should be noted that the applicant’s narrative indicated that the EFU designation was placed on the site in 1975, which appears to be incorrect. A 1974 tax map (Figure 2) shows the past land use district for lot 1100 and the parcels to the east was Suburban Residential (RS-1). The RS-1 district was “intended as a suburban (urban intermediate) residential zone for areas which are prime potential for urban development.” The minimum lot size for RS-1 was 40,000 square feet. Lot 1400 is not shown as a separate parcel in the 1974 tax map, but instead is part of the right-of-way for Sunset Highway.

In 1984 the Oregon Department of Transportation sold the land that created lot 1400 to Robert and April Jossy. In the 1989 tax map (Figure 3), lot 1400 is no longer right-of-way and both lots 1100 and 1400 are shown with the current EFU designation.
Neighboring Land & Vicinity

Figure 4 shows the current land use designations for the subject property, with the city limits of North Plains north and west of the subject properties but separated by the right-of-way for Sunset Highway. EFU lands abut the site to the east as well as across NW Gordon Road. The parcels abutting to the south of the subject site are designated AF-5 and Rural Residential (RR-5). Further to the southeast of the subject site, there are properties designated Rural Commercial (R-COM) and Rural Industrial (R-IND).

In 1983 as part of Ordinance No. 219, the County adopted the Rural/Natural Resource Plan. The Plan included an inventory of all land in rural Washington County to determine areas that shouldn’t be considered resource lands per Goals 3 (Agricultural Lands) and 4 (Forest Lands). The Inventory identified land that met the State’s requirements to justify an exception from Goals 3 and 4 limitations. An area could qualify for an exception if it was found not to be suitable for agricultural or forestry use because of small average parcel size, terrain constraints, existing development (rural residences) and other factors outlined in the Washington County Exceptions Statement Document, despite whether the soils were deemed high value. These became the County’s exception area. The properties south of the subject site that are designated AF-5, RR-5, R-COM, and R-IND are part of Area 53 in Washington County’s Exceptions Statement Document. Area 53 was located east of NW Gordon Road, north of NW Beach Road, south of NW Red Haven Road, and both south and west of Sunset Highway. Figure 5 is the map of this exception area.
The subject site and most of Exception Area 53 were not included in either the urban or rural reserves, but rather were identified as undesignated lands by the County, as shown in Figure 6. During the County’s Reserves process areas that did not meet the specified factors to designate land as either urban or rural reserves were listed as undesignated.

Testimony
At the time of writing this staff report, one comment had been submitted to the County, by Mr. Clifford Gerber, dated July 8, 2017, stating his support for this Plan Amendment as a neighboring property owner. A copy of the comment is provided at the end of this report as Attachment A. Any additional written testimony submitted after completion of this report will be presented to the PC for review and inclusion in the record at the public hearing.
B. COMPLIANCE WITH STATEWIDE PLANNING GOALS

Washington County’s Comprehensive Plan includes the Rural/Natural Resource Plan Element, which complies with the Statewide Planning Goals. Goals applicable to this proposal are addressed under related policies from Washington County’s Rural/Natural Resource Plan Element and in Attachment B, the Transportation Report. In addition, the applicable Oregon Administrative Rules (OARs) regarding the Goal 2 Exception Process and Goal 3 are specifically addressed below.

Statewide Planning Goal 2, Land Use Planning
The following are applicable excerpts from OAR 660-015-0000(2):

PART I – 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.

PART II – EXCEPTIONS
A local government may adopt an exception to a goal when:
(a) 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;
(b) 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; or
(c) The following standards are met:
   (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
   (2) Areas which do not require a new exception cannot reasonably accommodate the use;
   (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
   (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.[Emphasis added]

Statewide Planning Goal 3, Agricultural Lands
The following are applicable excerpts from OAR 660-015-0000(3):

To preserve and maintain agricultural lands
Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state’s agricultural land use policy expressed in ORS 215.243 and 215.700

The applicant requests a Plan Amendment to change the land use designation on two parcels from EFU to AF-5, requiring an exception to Statewide Planning Goal 3 (Agricultural Land). The proposed plan amendment from EFU to AF-5 would result in a loss of resource land, specifically agricultural land, conflicting with Statewide Planning Goal 3 to preserve and maintain agricultural lands. To consider this type of plan amendment an applicant must provide a compelling reason supported by adequate documentation. Statewide planning Goal 2 identifies a process to allow an exception to this Goal requirement to permit a loss of resource lands under certain circumstances.
The applicant is requesting a “committed exception” to Statewide Planning Goal 3 (Agricultural Lands) to allow for residential dwellings on the subject site. Residential dwellings are allowed in EFU only if the parcel is being farmed and the farm operation generates over a certain income.

Following is a description of each relevant OAR section related to this exception, followed by the applicant and staff’s response. OAR sections are shown in bold and italicized text.

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:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(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 660-004-0028(6).

Applicant: See pages 2-6 of the applicant’s supplemental narrative dated April 2017.

Staff: Staff findings for OAR Section 660-004-0028 2(a) – (c) are as follows:

a) **The characteristics of the exception area:**

   The project area is made up of two parcels, lot 1100 is approximately 2.8 acres and lot 1400 is approximately 3.6 acres, both are owned by Robert Jossy and are designated as EFU. The two subject parcels together are relatively flat and form a triangular shape as shown in Figure 1. No significant natural resources are found on the property. The site abuts Sunset Highway with no direct access to/from this roadway. Access to the site is limited to NW Redhaven Road, which connects to NW Gordon Road. New housing is being built along NW Redhaven Road along the access route. There are three additional EFU parcels located to the east of the subject site, with three different owners. These parcels were not included in the proposed plan amendment.
The two subject parcels were part of a 55-acre hazelnut farm in the mid-1980s. By the mid-1990s the hazelnut crop was replaced with seed crops. Mr. Jossy owned the 55 acres with his wife until 2014, at which time Mr. Jossy retained ownership of only the 6.5-acre area that makes up the subject site. In 2016 Mr. Jossy planted grass seed on the subject site for harvesting in 2017. However, Mr. Jossy states the site has not been harvested due to constraints associated with the adjacent land uses and the size of the subject parcel. Figure 7 shows the current condition of the subject site.

High value farmland is determined by its soil series and capability units per Oregon Revised Statute (ORS) 215.710, and OAR 660-033-0020(1)(a)(A), which define agricultural lands in western Oregon as those comprised of Class I-IV soils. The applicant has stated: “The Subject Parcels have a high quality soil type and the soils qualify as Agricultural Land as defined by this Rule.”

To prove a “committed exception,” the applicant must show that the adjacent properties affect the subject property in such a way that farm and forest uses are impracticable. The applicant has provided evidence as to barriers in utilizing this site for farm uses. Staff has determined that the unique land characteristics of the subject site including size, triangular shape, and isolation from off-site actively farmed EFU lands, create significant barriers to utilizing the site for farming practices. Staff cites the findings in section 2b below as applicable to this section, to show that the subject site is more compatible with the land patterns of the abutting area to the south which the County previously determined to be an exception area (see Figure 5).

(b) The characteristics of the adjacent lands:

Between the subject site and NW Gordon Road, there are three parcels designated EFU, shown on Figure 4. Lot 1300 is 2.21 acres, lot 1301 is 2.01 acres, and lot 1200 is 5.58 acres in size. Lot 1300 and 1301 contain residential dwellings along NW Gordon Road and Lot 1200 is vacant and does not appear to be actively farmed, as shown in Figure 8. These three off-site parcels of contiguous EFU land are all under different ownerships.
Adjacent to the subject site to the south are four parcels that are part of the plat for Sunset Orchard Estates No.2. This 12-lot residential subdivision was renamed Falcon Landing and is currently under construction. The parcels in Falcon Landing are designated AF-5 and RR-5 with an average lot size of 3.73 acres. Other properties in proximity to the site are also designated as AF-5 and RR-5. These properties are located within Exception Area 53, identified in the County’s Rural/Natural Resource Plan Exceptions Statement Document.

Exception Area 53 is located just south of the subject site as shown in Figure 5. This exception area currently consists of 51 parcels ranging in size from approximately 0.2 acres to 20 acres, with an average lot size of 2.65 acres. In this exception area, there are 22 parcels designated RR-5, 26 parcels designated AF-5, two designated R-COM and one designated R-IND, as shown in the land use designation map (Figure 4). Consistent with the description in the Exceptions Statement Document, the exception area contains a variety of uses that range from residential dwellings to commercial and industrial uses. The area also contains residential dwellings oriented toward a private airport runway and taxiway. The size of the subject site is consistent with many of the residential lots located in Exception Area 53.

(c) The relationship between the exception area and the lands adjacent to it;

The northern boundary of the subject site is the Sunset Highway. While the three parcels to the west of the subject site are designated EFU, they are all less than 10 acres in size and are not being actively farmed. Two of the parcels contain residential dwellings. South of the subject site is the Falcon Landing development currently under construction with 12 new residential dwellings with an average lot size of 3.73 acres. Access to the subject site and the Falcon Landing development is NW Redhaven Road, a private street. The size and location of the subject site is compatible with the adjacent AF-5 parcels in Falcon Landing.

(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;
(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).

Applicant: See page 8 and Attachments B-E of the applicant’s supplemental narrative dated April 2017.

Staff: The applicant has identified reasons as to why the subject site is impracticable to farm and has provided affidavits indicating the size and location of the site are barriers to activities such as harvesting and transporting the onsite crop. Affidavits are provided from the following: Mr. Robert Jossy, Steven Cawrse, Cawrse Centry Farm, Joann Vanderzee, Vanderzee Trucking, and Steve Vessey, Anderson Hay and Grain.
The applicant states that findings provided in their narrative for OAR 660-004-0028 “demonstrate that it is impracticable to commercially farm the subject site based on the size, shape and location of the proposed exception area adjacent to residential development and the Sunset Highway.” The applicant has provided evidence as to barriers in utilizing this site for farm uses specific to the size and location of these EFU parcels.

Subsection (3)(b) and (3)(c) are not addressed since they pertain to uses related to Goal 4 (Forest Lands), which are not part of the proposal.

(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.

(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.

Applicant: See page 9 of the applicant’s supplemental narrative dated April 2017.

Staff: Staff cites the findings below for OAR 660-004-0028(6) that address reasons supporting the exception to Goal 3 for the proposed Plan Amendment for Lots 1100 and 1400. The site was planted with a seed crop and the applicant had hoped to increase opportunities for farming, but the applicant has provided affidavits indicating that due to the size and location of the site and surrounding development, commercial harvesting is not feasible. Mr. Vanderzee, of Vanderzee Trucking, stated the following in his affidavit:

“...I went to look at the field and my first impression was that Mr. Jossy’s field was not adjacent to the subdivision but actually in the subdivision.

...I informed Mr. Jossy that we have had trouble before with picking up bales in fields next to residential subdivisions with children hiding behind the big bales while we pick them up with our large equipment. My company is unwilling to take the risks that are involved when working in a subdivision with large equipment and large trucks.

...I also told him we only make a profit when our trucks haul full loads. A full truck load is 54 bales. His field may only have 3-5 bales, and it is financially impractical for us load, haul, test and store such a small amount of bales.”

The exception process identifies three types of reasons to allow an exception and only one reason is to be addressed for each individual parcel. The applicant’s exception request is for a “committed exception” for both subject parcels.

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

Applicant: See page 6 of the applicant’s supplemental narrative dated April 2017.

Staff: Staff cites the findings for OAR 660-004-0028(2), starting at page 7, as applicable to the findings for this factor.
(b) Existing public facilities and services (water and sewer lines, etc.);

Applicant: See page 6 of the applicant’s supplemental narrative dated April 2017.

Staff: The applicant submitted service provider letters indicating adequate public services are available to the site for fire, police, and school services for potentially two residential dwellings. The applicant has also indicated that each parcel would be required to have an on-site septic system and a private well for potable water if developed. This plan amendment application does not include review of the applicant’s proposed improvements. A separate development application is required if the proposed amendment is approved and development is proposed.

(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.

Applicant: See pages 6-7 of the applicant’s supplemental narrative dated April 2017.

Staff: The land pattern around the subject site contains many small parcels similar in size to the subject site. Figure 9 shows the parcelization of the land within a one-mile radius of the subject site.
Figure 9 Map of parcels within 1-mile radius of the subject parcels.
This figure shows a number of the smaller parcels are located directly to the north and south of the subject site and centered on both sides of Sunset Highway. The size of the subject parcels is consistent with that of these smaller lots. These smaller lots are mostly located in Exception Area 53 and the city of North Plains.

The access road and septic drain fields to serve each of the residential units under development adjacent to the site inhibit use of the site and nearby small properties for commercial farming.

There are approximately 1,200 parcels and over 3,200 acres located in this 1-mile radius. While there are multiple parcels owned by the same property owners, the majority of the parcels are separately owned. The following is a breakdown of the study area:

<table>
<thead>
<tr>
<th>Parcel Size</th>
<th>Number of Parcels</th>
<th>Percentage of Parcels in the Study Area</th>
<th>Percentage of Acreage in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 80 acres</td>
<td>11</td>
<td>1%</td>
<td>46%</td>
</tr>
<tr>
<td>Greater than 20 acres</td>
<td>23</td>
<td>2%</td>
<td>36%</td>
</tr>
<tr>
<td>Greater than 10 acres</td>
<td>4</td>
<td>Less than 1%</td>
<td>2%</td>
</tr>
<tr>
<td>Greater than 5 acres</td>
<td>14</td>
<td>1%</td>
<td>3%</td>
</tr>
<tr>
<td>1 acre or greater</td>
<td>100</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>Less than 1 acre</td>
<td>1031</td>
<td>87%</td>
<td>5%</td>
</tr>
</tbody>
</table>

The data shows that within the 1-mile study area, less than 3% of the parcels are greater than 20 acres, but these parcels make up more than 80% of the acreage. 95% of the parcels in this area are less than 5 acres in size, but make up only 13% of the acreage. The size of the Jossy parcels is consistent with the size of the majority of the parcels in the study area. Except for a few parcels in the study area most of the parcels less than 5 acres in size are not designated EFU. Staff finds the size and location of the subject site is compatible with a majority of the parcels in this area that are not designated EFU.

(d) Neighborhood and regional characteristics;

Applicant: See page 6 of the applicant’s supplemental narrative dated April 2017.

Staff: The County evaluated all rural lands before adopting the 1983 Rural/Natural Resource Plan. The evaluation considered parcel size and existing uses and development, along with other factors. Lands that qualified for exceptions to Statewide Planning Goal 3 (Agricultural Lands) or Goal 4 (Forest Lands) were designated as exception lands, and those that did not qualify were designated as resource lands.

An exception area is a discrete group of parcels that were found to qualify for exceptions to Goals 3 or 4 in 1983 when the Rural/Natural Resource Plan was adopted. An area could qualify for an exception if it was found not to be suitable for agricultural or forestry use because of small average parcel size, terrain constraints, existing development (rural residences) and other factors outlined in the Washington County Exceptions Statement Document, despite whether the soils were deemed high value.
The subject site is consistent in size and characteristics with parcels in Exception Area 53. It is unclear why the subject area was not included in Exception Area 53 at the time. However, like Exception Area 53, the subject site was later identified in the County’s Reserves process as undesignated land, meaning that it did not meet the factors to be considered either urban or rural reserves.

The land use pattern shown in Figure 9 shows the North Plains urban area surrounded by larger rural parcels. The subject site, along with Exception Area 53, provide a transition from the urban area of North Plains to the active farming area of larger EFU land holdings. The subject site and Exception Area 53 are sized and developed in such a way that future expansion of North Plains’ urban growth boundary (UGB) could be considered for this area. The Urban Planning Area Agreement (UPAA), between the City of North Plains and Washington County identifies Exception Area 53 and the subject site as areas of interest for potential inclusion in North Plains’ UGB. Figure 10 shows the North Plains UPAA map.

Figure 10 UPAA Map for North Plains.
(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;**

**Applicant:** See page 7 of the applicant’s supplemental narrative dated April 2017.

**Staff:** The subject site is part of a small pocket of EFU land isolated from other functional EFU lands by NW Gordon Road, Sunset Highway and developments within Exception Area 53. The remaining three parcels between the subject site and NW Gordon Road are designated EFU, but do not appear to have any farming activity. Lots 1300 and 1301 contain residential dwellings, further isolating the subject site from active farming areas located west of NW Gordon Road and making commercial farming impractical.

(f) **Physical development according to OAR 660-004-0025; and**

**Applicant:** See page 7 of the applicant’s supplemental narrative dated April 2017.

**Staff:** The applicant states their request is for an irrevocably “committed exception” not a physically developed exception. Therefore, this requirement does not apply.

(g) **Other relevant factors.**

**Applicant:** See page 8 of the applicant’s supplemental narrative dated April 2017.

**Staff:** Staff cites the findings for OAR 660-004-0028(6)(a) through (f) in addressing the applicant’s request for an exception to Goal 3, with no additional factors identified.

(7) **The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.**

(8) **The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:**

(a) **Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and**

(b) **Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.**

**Applicant:** See page 1, 6 and 7 of the applicant’s narrative dated July 31, 2017 and Attachment I of the applicant’s supplemental narrative dated April 2017, containing current maps, photos, and an aerial photo of the subject site.

**Staff:** This staff report includes maps, photos, tables, an aerial photograph and written findings to address the proposed plan amendment and exception request.

Based on the finding provided above, staff finds that the proposal meets the requirements identified in OAR 660-004-0028 justifying the proposed exception to Goal 3 (Agricultural Lands).
C. TRANSPORTATION PLANNING RULE (OAR 660-012-0060)

Applicant: See page 15 of the applicant’s narrative dated July 31, 2017 and Appendix F of the applicant’s supplemental packet dated April 2017, which includes the Traffic Impact Statement prepared by the County (TIS #02029495, dated December 12, 2016).

Staff: Per the attached Transportation Report, the proposed Plan Amendment is consistent with the Transportation Planning Rule and Goals 1, 3, 5, 6, 7, 8, 9 and 10 of the Transportation System Plan, and would not significantly affect the capacity or levels of traffic on the nearby transportation network defined in OAR 660, Division 12.

These findings are also applicable to Statewide Planning Goal 12, Transportation.

D. WASHINGTON COUNTY RURAL / NATURAL RESOURCE PLAN

1. Policy 1, the Planning Process, states:

   It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county’s citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:
   p. Require that plan map amendments meet the following criteria:
      3. Amendments from EFU, EFC or Agriculture and Forestry-20 to Agriculture and Forestry-10 or Agriculture and Forestry-5 shall be based upon:
         A. A mistake (clerical error) in this 1983 plan; or
         B. An Exception to the applicable LCDC Goals through the LCDC Goal 2 Exception Process (OAR Chapter 660, Division 04).
         C. For all amendments there shall be a requirement that the applicant will record in the deed records a restrictive covenant that the occupant of the property will not object to commonly accepted farm and forest practices which may occur on adjacent lands.

Applicant: See pages 9-10 of the applicant’s narrative dated July 31, 2016.

Staff: The applicant is requesting a “committed exception” and does not identify any clerical error in the 1983 plan. Staff cites the findings for OAR Chapter 660, Division 4, found in Section III.B of this report as applicable to this policy and showing how it has been met. However, it should be noted that the historic maps on the parcel show lot 1100 was designated RS-1, a rural residential district that is consistent with the AF-5 district. When the Rural/Natural Resource Plan was adopted in 1983, the county identified multiple exception areas, including Area 53. It is unclear why this lot was not included, since it is compatible with the other parcels located south of the subject site and was originally designated RS-1, a rural residential district, thereby a potential error in the designation of the subject site.
2. Policy 2, Citizen Involvement, states:

_It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government._

**Applicant:** See page 10 of the applicant’s narrative dated July 31, 2016.

**Staff:** A quasi-judicial plan amendment such as this must be considered via a Type III public hearing review procedure. In accordance with Section 204-4 of the Community Development Code (CDC), notices of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1,000 feet of the subject property. The notice was sent at least 20 days prior to the first hearing (mailed June 29, 2017). Additionally, the county placed a legal notice of the hearing in *The Oregonian*, a newspaper of general circulation, at least ten days prior to the first hearing date (published July 7, 2017.)

A copy of the plan amendment application was also mailed to the representative for the local Citizen Participation Organization (CPO 1) on June 13, 2017. Finally, the staff report will be made available to all interested parties at least seven days prior to the hearing as required by CDC Section 203-6.2.

Based upon the actions listed above, the requirements of Policy 2 have been met. These findings also pertain to Statewide Planning Goal 1, Citizen Involvement.

3. Policy 14, Plan Designations, states:

_It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County’s urban growth boundaries, and to provide land use regulations to implement the designations._

Applicable Implementing Strategies:

a. **Designate Natural Resource lands in the following manner:**
   
   1. **Lands which meet the definitions and criteria for agricultural lands contained in LCDC Goal 3 and OAR Chapter 660, Division 05 shall be designated Exclusive Farm Use (EFU) and lands which meet the LCDC Goal 4 definition of forest land shall be designated Exclusive Forest and Conservation (EFC).** In determining which Plan Designation shall apply (EFU or EFC) when land meets criteria for both the EFU and EFC District, the following factors shall be utilized to determine the appropriate designation:
      A. Soil types as related to Goal 3 and forest classification as related to Goal 4.
      B. The predominant use of the property.
      C. The predominant use of the surrounding properties (must be contiguous or be a sufficiently large block of land).
      D. What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses.
      E. Physical characteristics of the site.
      F. Whether the site is or has been on a farm or forest deferral.

***
c. **Designate Rural Lands, for which an LCDC Goal 2 Exception is provided to LCDC Goals 3 (Agriculture) and 4 (Forestry), in the following manner:**

***

4. All lands which were zoned urban or suburban residential will be designated either RR-5, AF-5 or AF-10 in accord with the purpose and intent of the appropriate land use district and the character of the surrounding area.

**Applicant:** See pages 10-11 of the applicant’s narrative dated July 31, 2017.

**Staff:** Historic maps of the properties show lot 1100 was designated RS-1, a rural residential zone that is consistent with the AF-5 district. When the Rural/Natural Resource Plan was adopted in 1983, the county identified multiple exception areas, including Area 53 that acknowledged those areas that were already parcelized or developed. However, it is unclear why these parcels were not included in the exception area at that time, since they are similar to and compatible with the parcels located south of the subject site.

Staff finds the policy is met. These findings for Policy 14 also pertain to Statewide Planning Goals 3, Agricultural Lands.

4. **Policy 16, Exclusive Farm Lands, states:**

*It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.*

**Staff:** Pursuant to Policy 16, the applicant is requesting an exception to Goal 3 using the Goal 2 process, to change the land use designation from EFU to AF-5. For this policy staff cites the findings in Section III.B that address the exception process and the findings for Policy 1 supporting the exception to remove this site as resource land.

Staff finds the policy is met. These findings for Policy 16 also pertain to Statewide Planning Goals 3, Agricultural Lands.

5. **Policy 18, Rural Lands, states:**

*It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.*

**Applicant:** See pages 11-12 of the applicant’s narrative dated July 31, 2017.

**Staff:** In 1975, the lot 1100 was designated RS-1 but were not added as part of the County’s exception areas during the process to adopt the 1983 Rural/Natural Resource Plan. Consequently, the site was designated EFU, consistent with Policies 14 and 16. Because the requested AF-5 designation is not a resource designation, it is necessary to take an exception to
Statewide Planning Goal 3. The site is adjacent to other AF-5 parcels currently being developed as rural residential dwellings, consistent with the applicant’s proposed plan for the subject site.

Staff finds that the proposed Plan Amendment complies with Policy 18. These findings also pertain to Statewide Planning Goal 2, Land Use Planning.

6. Policy 19, Rural Residential Development, states:

_It is the policy of Washington County to allow rural housing in rural areas._

_Staff:_ The applicant is requesting an AF-5 designation which requires an exception to Goal 3. The AF-5 District has a five-acre minimum lot size for new lots and allows one dwelling per lot. The applicant is not creating new lots, but since AF-5 allows for the smallest rural residential lot sizes, AF-5 is appropriate for the existing 2.8 and 3.6 acre subject lots.

Staff finds that the proposed Plan Amendment complies with Policy 19.

7. Policy 22, Public Facilities and Services, states:

_It is the policy of Washington County to provide public facilities and service in the Rural/Natural Resource Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety._

_Applicant:_ See pages 12 of the applicant’s narrative dated July 31, 2017 and attached service provider letters.

_Staff:_ Copies of statements of service availability from three service providers are included in the applicant’s submittal. These statements are from the Hillsboro School District, Washington County Fire District #2 and the Washington County Sheriff’s Office. The Service Provider Letters provided by the applicant show the proposed Plan Amendment does not affect availability of public facilities and services. Any future development application will require new Service Provider Letters to ensure that mitigation needed to address a specific development proposal is adequately provided.

Staff finds that the proposed Plan Amendment complies with Policy 22. These findings also pertain to Statewide Planning Goal 11, Public Facilities and Services.

8. Policy 23, Transportation, states:

_It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan._

_Applicant:_ See pages 13 of the applicant’s narrative dated July 31, 2017.

_Staff:_ The County has developed a Transportation System Plan (TSP) that meets both the intent of Policy 23 and more recent Regional, State and Federal transportation planning requirements. This TSP is updated as needed to maintain compliance with such requirements. Conformance
with applicable standards and requirements of the TSP is discussed within the Transportation Report for this Plan Amendment (Attachment B).

Staff finds that the proposed Plan Amendment complies with Policy 23.

E. TRANSPORTATION PLANNING RULE (OAR 660-012-0060) AND WASHINGTON COUNTY TRANSPORTATION SYSTEM PLAN

Applicant: See page 15 of the applicant’s narrative dated July 31, 2017 and Appendix F of the applicant’s supplemental packet dated April 2017 packet that includes the Traffic Impact Statement prepared by the County (TIS #02029495, dated December 12, 2016).

Staff: A Transportation Report (Attachment B), incorporated into this staff report by reference, contains discussion on Plan Amendment compliance with the Transportation System Plan (TSP) and the Transportation Planning Rule. Based on the applicant’s written materials and the findings in this report, staff concludes that this proposed Plan Amendment will not significantly affect the capacity or levels of travel on the nearby transportation network as defined in OAR 660-012-0060. Based on the findings in the Transportation Report, staff finds the proposed Plan Amendment complies with OAR 660-012-0060.

These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation.

F. WASHINGTON COUNTY COMMUNITY DEVELOPMENT CODE

Article III, Land Use Districts:

Section 340 Exclusive Farm District (EFU)

340-1 Intent and Purpose

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County. The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related supportive uses which are deemed appropriate. This EFU District is provided to meet the Oregon statutory and administrative rule requirements.

Section 348 Agriculture and Forest District (AF-5)

348-1 Intent and Purpose

The AF-5 District is intended to retain an area’s rural character and conserve the natural resources while providing for rural residential use in areas so designated by the Comprehensive Plan. The purpose of this agricultural and forestry district is to promote agricultural and forest uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forest lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area. Residents of rural residential tracts shall recognize that they will be subject to normal and accepted farming and forestry practices.
Section 386 - PRIVATE USE AIRPORT SAFETY OVERLAY DISTRICT

386-1 Intent and Purpose

The intent of the Private Use Airport Safety Overlay District is to encourage and support the continued operation and vitality of private use airports that were the base for three or more aircraft on December 31, 1994, and certain privately-owned public use airports, by establishing safety standards to promote air navigational safety at these airports as well as the safety of those living near these airports.

Applicant: See pages 16-17 of the applicant’s narrative dated July 31, 2017 and Attachment J of the supplemental narrative dated April 2017.

Staff: The subject site was once part of a larger farming operation; however land use patterns have changed with the development of smaller lots and other non-farm uses surrounding the site. The subject site is more consistent with the intent and purpose of the AF-5 district to retain the area’s rural characteristics while providing for rural residential uses consistent with the surrounding land use designations. The area is part of the Private Use Airport Safety Overlay District since there is an airstrip located within proximity to the site. The proposed plan amendment will not result in impacts to the overlay district. However future development of the site will be required to address related standards at the time of construction.

The proposed Plan Amendment to AF-5 is consistent with CDC Sections 348 and 386 and the development patterns in the immediate vicinity. Staff finds the proposed Plan Amendment would not preclude future development from complying with requirements of these CDC Sections.

IV. SUMMARY AND CONCLUSIONS

This report and evidence provided by the applicant demonstrate that the proposed Plan Amendment is consistent with applicable policies and strategies of the CFP.

Per the attached Transportation Report, the proposed Plan Amendment is consistent with the Transportation Planning Rule and Goals 1, 2, 3, 5, 6, 7, 8, 9 and 10 of the Transportation System Plan, and would not significantly affect the capacity or levels of travel on the nearby transportation network as defined in OAR 660, Division 12.

Local service providers can currently provide or have the ability to provide an adequate level of public facilities and services to the property.

V. RECOMMENDATION

Based on the findings in this report, staff recommends that the Plan Amendment be APPROVED.

VI. ATTACHMENTS

Attachment A: Public Comment: Email from Clifford Gerber dated July 8, 2017
Attachment B: Transportation Report
Hello Sambo,
Please let the Planning Commission know that, as a neighbor to the two parcels in question, I, Clifford Gerber, approve of changing the land use designation of the two parcels from EFU to AF-5.

I believe the two parcels will better blend with the surrounding community as home sites.

Thank you,

Clifford Gerber
Cliff@GerberDesign.biz
503-313-0840

Residence:
9889 NW 326th Place
Hillsboro, OR 97124
TRANSPORTATION REPORT
CASEFILE NO. 17-237-PA

Applicant: Robert Jossy
Location: Between Sunset Highway 26 and NW Redhaven Street (private), approximately 1,000 feet east of NW Gordon Road
Tax Map/Lot: 1N301CC Tax Lots 01100, 01400
Site Size: 6.39 acres

Staff has reviewed this request for compliance with the applicable transportation planning policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:
1. The proposed quasi-judicial plan amendment would change the plan designation on a 6.39 acre site from Exclusive Farm Use (EFU) to Agriculture and Forest (AF-5) designation.
2. The current access to the subject property is located via NW Redhaven Street (private), approximately 1,000 feet east of NW Gordon Road. NW Redhaven Street is a private street and planned to remain a two-lane roadway.
3. The following standards are applicable to this request and are addressed in this staff report:
   a. OAR 660, Division 12, Oregon Transportation Planning Rule:
      • Section 060 - Plan and Land Use Regulation Amendments
   b. Washington County Comprehensive Framework Plan (CFP):
      • Policy 1
   c. Washington County Transportation System Plan Goals:
      • Goal 1 – Safety
      • Goal 3 – Livability
      • Goal 4 – Natural Environment
      • Goal 5 – Mobility
      • Goal 9 – Coordination
      • Goal 10 - Funding

B. Oregon Transportation Planning Rule
1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will ‘significantly affect’ the planned transportation system in the area.
2. Pursuant to the OAR, the proposed plan amendment would ‘significantly affect’ NW Redhaven Street, NW Gordon Road and/or the surrounding transportation network if it does any of the following as measured at the end of the planning period identified in the adopted TSP (year-2035):
   • Change the functional classification of an existing or planned transportation facility;
   • Change the standards implementing a functional classification system;
   • Allow types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
   • Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the Transportation System Plan or comprehensive plan; or
   • Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

3. Considering the criteria above, in order to determine if a plan amendment will result in a ‘significant impact’ on transportation facilities, the County generally requires a comparative analysis of a reasonable worst-case development of a site under current and proposed land use designations. A ‘reasonable worst case’ development would be one with the greatest potential trip generation based on a reasonable build-out of the site over the planning horizon of the adopted TSP.

4. The county evaluates roadway performance based on the volume to capacity ratios (V/C), measured at signalized intersections. Table 3.1 in the Washington County TSP Users’ Guide sets forth the applicable performance criteria for plan amendment requests. For this plan amendment, there are no signal controlled intersections in the vicinity of the site.

5. The applicant provided an estimate of peak hour and daily traffic under a reasonable worst-case scenario as compared to existing zoning. The analysis is based on build-out of the subject site with two single-family dwelling units (ITE Code 210 – Single Family Detached) as the basis of the reasonable worst case scenario. The existing zoning analysis is based on farm use, however, the site currently generates no trips and this was used as a basis for existing zoning. A total of 19 additional daily trips and 2 additional PM peak hour trips are anticipated as a result of the proposed zoning.

6. No changes in functional classification are proposed or required in order to accommodate the proposed plan amendment. Furthermore, the plan amendment will not affect the standards implementing the functional classification system as set forth in Objective 5.3 of the County’s TSP nor will it significantly affect the capacity of the surrounding transportation network. Based upon these facts, staff concludes that the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 060 of the Oregon Transportation Planning Rule.

7. Considering the findings above, staff concludes that the proposed amendment will not significantly affect the capacity or levels of travel on the nearby transportation network as defined in the Transportation Planning Rule.
C. **Washington County Comprehensive Framework Plan For The Urban Area**

This plan amendment request is subject to Policy 1.f. from the County’s Comprehensive Framework Plan (CFP). This policy states the following:

A quasi-judicial plan amendment to the Community Plan Maps, including the implementing tax maps, shall be granted only if the Review Authority determines that the proponent has demonstrated that the proposed designation conforms to the locational criteria of the Comprehensive Framework Plan, the Community Plan Overview and the sub-area description and design elements, complies with the regional plan, and demonstrates that the potential service impacts of the designation will not impact the built or planned service delivery system in the community. This is a generalized analysis that is no way precludes full application of the Growth Management Policies to development permits as provided in the Code.

**STAFF:** As it pertains to transportation, this policy requires the County to analyze the existing transportation system as well as the planned system. With the proposed plan amendment, the future performance of nearby transportation facilities will comply with the adopted performance thresholds of the TSP, based on the County Traffic Engineer’s review. Based on this, the plan amendment will be consistent with Policy 1.f. of the CFP with regard to transportation.

D. **Washington County Transportation System Plan (TSP)**

The proposed plan amendment is subject to several objectives from the County’s TSP, which are listed and addressed below.

<table>
<thead>
<tr>
<th>Goal 1: Safety</th>
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<tr>
<td>Provide a safe transportation system for all users.</td>
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<tr>
<td><strong>Objective 1.3</strong></td>
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<tr>
<td>Review all development proposals, including those within incorporated areas, to continue the safe operation of county roads.</td>
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**STAFF:** Significant impacts on capacity or roadway safety are not anticipated under the proposed plan designation. Any traffic safety impacts associated with potential future development on the subject property will be subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Objective 1.3. As explained above in this report, the proposed plan amendment is not expected to have a detrimental impact on the capacity or level of service on any of the transportation facilities in the impact area. The proposal therefore does not conflict with Goal 1.
### Goal 3: Livability
Preserve and enhance Washington County’s quality of life for all residents, workers and visitors.

**Objective 3.1**
Strive to maintain and enhance the livability of existing and future communities and neighborhoods.

**Objective 3.4**
Identify, limit and/or mitigate adverse impacts of transportation on rural, agricultural and resource areas in Washington County.

**STAFF:** Any future development on the subject property will be subject to the regulations set forth in the Community Development Code. The proposal therefore does not conflict with Goal 3.

### Goal 4: Natural Environment
Create and maintain a transportation system that first avoids, then minimizes, then mitigates impacts to the natural environment.

**Objective 4.2**
Reduce and/or mitigate negative impacts of the transportation system on the natural environment.

**STAFF:** An existing roadway provides access to the site. No changes to this roadway or any other roadways in the vicinity are anticipated as a result of this amendment. Therefore, the amendment does not conflict with Goal 4.

### Goal 5: Mobility
Promote the efficient and cost–effective movement of people, goods and services by all modes.

**Objective 5.3**
Utilize the Interim Washington County Motor Vehicle Performance Measures to manage congestion.

**STAFF:** The proposed plan amendment will not result in significant degradation of the planned motor vehicle system nor will it affect the Functional Classification of any nearby street or highway, nor result in land uses that are inconsistent with those identified in the TSP. Therefore, the amendment will be consistent with the performance measures set forth in the strategies for implementation of Goal 5.

### Goal 9: Coordination
Implement the Transportation System Plan by working with the public, community groups, transit providers, cities and other government agencies.
STAFF: The site is already well served with a good transportation link with NW Gordon Road. The applicant has worked with the County to ensure that the access point at NW Redhaven Street provides safe and convenient access to the subject parcels. The proposal therefore does not conflict with Goal 9.

<table>
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<th>Goal 10: Funding</th>
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<tr>
<td>Seek adequate and reliable funding for transportation.</td>
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<table>
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<tr>
<th>Objective 10.2</th>
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<tbody>
<tr>
<td>Promote equitable, sustainable and fiscally responsible transportation system funding.</td>
</tr>
</tbody>
</table>

STAFF: If development occurs on the affected property, it will be subject to payment of the appropriate Transportation Development Tax (TDT) toward future capacity improvements. Payment of the TDT is consistent with the objectives included under Goal 10.

CONCLUSION

Based on the findings in this report, staff concludes that this plan amendment proposal will NOT “significantly affect” a transportation facility as defined in OAR 660, Division 12 and is consistent with the Washington County Comprehensive Framework Plan and Washington County Transportation System Plan.
July 12, 2017

To: Washington County Planning Commission

From: Andy Back, Manager
      Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 822 - An Ordinance Addressing
         Minor Amendments to the Rural/Natural Resource Plan, the Comprehensive
         Framework Plan for the Urban Area, and the Community Development Code

STAFF REPORT

For the July 19, 2017 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 pm)

I. STAFF RECOMMENDATION

Conduct the public hearing and recommend adoption of Ordinance No. 822 to the Board of
Commissioners, to include the proposed amendments as described in the staff report.

II. OVERVIEW

Ordinance No. 822 is an omnibus ordinance proposing minor amendments to elements of the
Washington County Comprehensive Plan. The proposed amendments include changes to
improve efficiency in the development review process, revisions to comply with state law and
provisions that enhance community engagement and livability.

III. BACKGROUND

Ordinance No. 822 proposes updates to the Rural/Natural Resource Plan (RNRP), the
Comprehensive Framework Plan for the Urban Area (CFP) and the Community Development
Code (CDC). The proposed ordinance includes minor amendments that clarify school
documentation and notice requirements, reflect recent changes to state law for plan amendments
in the urban and rural reserves and FD-20 industrial sites, revise neighborhood meeting
requirements for certain application types, modify the Transit Oriented (TO) District appeal
process and make minor adjustments and allowances to certain manufactured home setback

Department of Land Use & Transportation
Planning and Development Services - Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us
provisions. The proposed amendments provide consistency with federal, state, regional, and local requirements and improved guidance to developers and staff. The Board authorized this ordinance as part of the 2017 Long Range Planning Work Program.

Ordinance Notification
Ordinance No. 822 and an accompanying summary were mailed to citizen participation organizations (CPOs) and interested parties on June 15, 2017. A display advertisement regarding the proposed ordinance was published in The Oregonian newspaper on June 30, 2017. Individual Notice 2017-03 describing proposed Ordinance No. 822 was mailed to 327 people on the General Notification List on June 15, 2017. A copy of this notice was also mailed to the Planning Commission at that time.

IV. ANALYSIS

The omnibus ordinance addresses seven different topic areas requiring minor revisions across three Elements of the Comprehensive Plan, as described below.

A. School District Documentation and Notice Requirements
Two minor modifications with similar language are proposed for Policy 1, (The Planning Process), of both the RNRP and the CFP concerning large school districts. The first proposed amendment acknowledges the current County practice of notifying large school districts twenty (20) days in advance of a hearing, on a plan or code change when it may impact the residential density of land within the boundaries of the district. Currently, Policy 1 stipulates a ten (10) day notification time period. This amendment reflects current state law and practice.

The second proposed amendment clarifies the documentation required from a school district for quasi-judicial or legislative comprehensive plan amendments that impact the planned density of residential land, or a residential land use regulation amendment. The reference to “Appendix D” in Implement Strategy p. of Policy 1, (The Planning Process) of both the RNRP and CFP is proposed to be removed and replaced with language that specifically describes the information currently requested from the district regarding adequacy of levels of service. Appendix D of both the RNRP and CFP were deleted through Ordinance No. 796 in 2015, however this reference was missed at that time.

A related change is proposed to CDC Section 501-9.10, regarding Public Facility and Service Requirements Outside the UGB. The change is proposed to provide consistency between this section and Section 501-8.2.A.1. regarding service provider documentation for areas inside the UGB.

B. Urban and Rural Reserves Plan Amendment Restrictions
Urban and rural reserves in the Portland Metro Area are implemented through Oregon Administrative Rules (OAR) 660-027. In general, under OAR 660-027-0070, the County cannot amend comprehensive plan provisions or land use regulations to allow smaller lots or
parcels or uses that were not allowed at the time of the original designation as urban or rural reserves. This OAR also outlines several narrow exceptions where the County may amend its comprehensive plan provisions or regulations applicable to urban and rural reserves.

Policy 1 of the RNRP describes the planning process and the implementing strategies for plan amendments in the rural areas. The general limitations for plan amendments outlined in this policy include conformance with applicable LCDC Goals, state statutes and administrative rules, policies and strategies of the RNRP, and the Transportation Plan elements.

The minor amendment proposed to Policy 1 seeks to clarify these general plan amendment provisions, including the addition of a reference to OAR 660-027-0070. The intent is to make applicants aware of the restrictions and limited exceptions to plan amendment requests within the urban and rural reserves, regardless of current land use designation. By providing a reference to the OAR within Policy 1, an applicant with land in the urban or rural reserves will be better able to assess whether there is an opportunity to request a plan amendment for the subject property and put an applicant on notice that the circumstances for plan amendments are restrictive.

C. Clarification of Metro Industrial Land Reference

Metro Ordinance No. 04-1040B (2004) designated over 1538 acres of land within the UGB for industrial use in Washington County, and at the same time made substantive changes to Title 4 (Industrial Lands) of the Metro Urban Growth Management Framework Plan (UGMFP). In Title 4, Metro identified “Regionally Significant Industrial Areas (RSIA),” a new category for areas expected to be industrial with unique requirements and protections beyond the general industrial land category.

The County’s CFP contains Policy 41 (Urban Growth Boundary Expansions), which states that it is the policy of the County to “ensure an efficient and effective transition of rural land to urban development when an Urban Growth Boundary (UGB) is expanded.” The Implementing Strategies under this policy include the establishment of ‘Areas of Special Concern’ (ASC) that implement Metro’s 2004 UGB changes regarding industrial lands. These ASC’s, established in 2007 through Ordinance No. 671, laid out specific criteria for development applications within six industrial ASC’s and showed them on the Future Development Areas Map (Map A of Policy 41).

CFP Policy 41, Implementing Strategy d.4., lays out the criteria for development within ASC 4, an approximately 354-acre area between Tualatin and Sherwood. These were established through Ordinance No. 671, and include restrictions on subdivision or partition of lots or parcels to below 50 acres. The intent was to implement Section 3.07.420 of Metro’s UGMFP (Protection of Regionally Significant Industrial Areas). However, according to Metro’s Title 4 Map of Industrial and Other Employment Areas, ASC 4 is not considered a RSIA and the correct citation for the industrial land should be Section 3.07.430, rather than 3.07.420.
This minor amendment corrects the inaccurate reference, and clarifies that lots or parcels 50 acres or larger may be subdivided or partitioned into lots or parcels smaller than 50 acres if allowed by Metro UGMFP Section 3.07.430. That Section contains certain exceptions to the 50-acre requirement for, among other things, provision of public facilities and services or to protect a natural resource.

D. Neighborhood Meetings for certain Type II or III Applications

This amendment proposes to clarify the language concerning when a neighborhood meeting is required for certain Type II or III applications proposed near a residential district. In the past, Community Participation Organization (CPO) 7 and the Washington County Committee for Community Involvement (CCI) Code and Ordinance Subcommittee requested the Board consider broadening the community notification process to provide more notice of pending developments in the community. This topic was most recently addressed through in an Issue Paper in 2013. At that time, the Board requested more information concerning modest changes to neighborhood meeting requirements when a commercial development is proposed near a residential district. As part of the 2017 Work Program, staff reviewed the remaining issues and recommended this item for consideration in this omnibus ordinance.

In October 1996, the Board established neighborhood meeting requirements for most Type II and III urban development applications through adoption of A-Engrossed Ordinance No. 478. Neighborhood meetings were intended to inform the adjacent neighborhood early in the development review process, resulting in a more timely review of development applications because neighborhood concerns could be addressed earlier in the process. After the neighborhood meeting, and once a Type II or III development request is accepted, the County provides public notice to all property owners located within 500 feet of a proposed urban development site.

CDC Section 203-3 addresses the neighborhood meeting requirements. This section requires a neighborhood meeting prior to a land use submittal for Type II and Type III Commercial, Institutional or Industrial use when the property abuts a residential district. The CDC does not define ‘abut,’ however staff has interpreted it to mean lots directly adjacent to or touching. There has been community concern that Commercial, Institutional or Industrial projects that are proposed directly across the street from a residential district do not qualify as “abutting” and thus do not trigger the neighborhood meeting requirement, yet may have impacts on the community that warrant discussion at a neighborhood meeting.

In order to provide additional opportunity for early public involvement when a Commercial, Institutional or Industrial proposal may affect a residential area, staff recommends a neighborhood meeting be required when a Type II or Type III Commercial, Institutional or Industrial application is within 125 feet of a Residential District. The distance is roughly the width of the widest street right-of-way for County arterials. Staff also considered defining the term ‘abuts’ to include properties across the street. However, this did not fit with how the term is used elsewhere in the CDC.
E. Type III Appeals in Transit Oriented (TO) Districts
The TO Districts were adopted by Ordinance No. 486 in 1997, with the intention of encouraging development that is transit supportive and pedestrian oriented near transit centers and bus route corridors. Currently, Type III TO District applications are reviewed by the Hearings Officer with all appeals heard by the Board of Commissioners (Board). These are the only Type III land use application appeals that come before the Board. In all other Type III land use applications, the Hearings Officer is the final local review authority, and all appeals are heard by the Oregon Land Use Board of Appeals (LUBA). Currently, other than the TO Type III appeals the Board only hears appeals of Planning Commission decisions for Type III, quasi-judicial plan amendments.

When the TO District regulations were adopted nearly 20 years ago, they introduced an innovative and unique development type with standards and criteria that were new to the County. Wanting greater oversight for this new land use district, the Board approved provisions that required all Type III appeals in the TO District be heard by the Board. Over time, it does not appear that Board oversight in this process is needed as the TO District has become a customary design type throughout the area and appeals are extremely infrequent (i.e., no appeals have been heard within the past five years).

Based on the above factors, staff proposes to remove the Board as the appeal authority for TO District Type III applications to be consistent with all other Type III land use applications.

F. Heat Pumps and Air Conditioner Setback Requirements
CDC Section 430-1.6 currently prohibits heat pumps or air conditioners from being located in the required residential interior side yard setback. The required interior side yard setback in the residential districts is typically five feet. In the case of a reduced side yard setback, a perpetual six-foot wide maintenance easement is required and the easement area must be kept clear of all equipment or structures.

In many cases, it has become more difficult to site air conditioning units in the interior side yard on residential lots as lots have become smaller and houses are constructed to the minimum setback. In these circumstances, the current restriction leaves no opportunity to place an air conditioning unit in the interior side yard. Based on these issues, staff requested the removal or easing of the restrictions on air conditioning units.

Staff conducted a jurisdictional review to evaluate how other local cities and counties treated air conditioners and mechanical equipment in interior residential side yards. The city of Beaverton was the only jurisdiction found to impose a restriction on the units by requiring a minimum one-foot setback from the property line. Additionally, Tualatin Valley Fire and Rescue (TVF&R) was consulted to determine if they had concerns with the proposed change. TVF&R indicated they did not have any siting restrictions or concerns with air conditioners or mechanical equipment being placed in the residential side yard.
The ordinance as filed proposes a change to Section 430-1.6 to allow heat pumps and air conditioners within the required interior side yard as long as they are at least one foot from the property line, similar to Beaverton’s provision. The ordinance also recommends referencing Section 430-1.6 in the side yard requirements in the residential districts to clarify that heat pumps and air conditioners are allowed within the maintenance easements.

Based on further review and discussion subsequent to the ordinance being filed, staff recommends removing all setback restrictions to be more compatible with how other jurisdictions treat heat pumps and air conditioners within the required interior side yard. Staff recommends engrossment of Ordinance No. 821 to remove the one (1) foot setback restriction initially proposed for air conditioners or heat pumps, as shown below (proposed engrossment is shown in gray highlight):

430-1.6 Heat Pumps and Air Conditioners
Heat pumps and air conditioners may not be located within a required interior side yard as long as they are at least one (1) foot from the property line and comply with State Building Code requirements.

G. Mobile Home Subdivision Front Yard Setback Reduction
As part of the 2017 Work Program, Cal-Am Properties requested that the County consider amendments to the CDC to allow a reduction of front yard setbacks from 10 feet to five feet for manufactured dwelling subdivisions, consistent with changes to the Oregon Manufactured Dwelling Standards and Residential Specialty Code adopted in 2010. Cal-Am is the owner of the Heritage Village manufactured dwelling subdivision in the Aloha community. The request stated that the ability to reduce the front yard setback would allow the placement of newer, larger manufactured dwellings on lots and rental spaces in older manufactured home parks and subdivisions.

CDC Section 430-79.4 addresses setback and yard requirements for manufactured dwelling subdivisions, noting specific yard requirements for subdivisions approved before Dec. 27, 1983. The only manufactured dwelling subdivision approved before this date is Heritage Village. The setback and yard requirements were modified in 2007 through Ordinance No. 684 specifically to address issues that Heritage Village/Cal Am Properties was experiencing with larger replacement dwellings not being able to meet setback requirements.

Ordinance No. 684 provided flexibility in the side yard and rear yard setbacks through footnotes that allowed reductions in certain circumstances. Specifically, the side yard requirement is 5 feet, but Footnote 3 provides that it may be less than 5 feet when the requirements of the Oregon Manufactured Dwelling Standards and the Residential Specialty Code are met, as determined by the Building Official. The required rear yard setback is 10 feet, however Footnote 2 was added to allow reduction to 5 feet when it abuts a designated open space or public non-buildable tract and when the requirements of the Oregon
Manufactured Dwelling Standards and the Residential Specialty Code are met, as determined by the Building Official. The ordinance provided some flexibility on how the front yard setback was measured, but did not provide for a reduction to this setback.

This is an unusual situation, where a manufactured home community is platted as a subdivision rather than as a park. For the manufactured home park portion, the only property line is the property line around the park, so the setback is whatever the Building Code permits between structures. With the platted subdivision there are property lines for each lot and setbacks are measured between the structure and the property line. Both the CDC and the Building Code have setback requirements from property lines. There is no flexibility with the CDC setbacks, whereas there is some with the Building Code.

In evaluating the impacts of reducing the front yard setback for some of these properties, staff considered potential parking and neighborhood impacts. The CDC currently requires two parking spaces for each manufactured dwelling and that requirement would still be in place when determining whether a reduced setback could be granted for a particular lot. Also, Heritage Village includes several parking courts evenly distributed throughout the development. Staff therefore does not believe this setback change will affect parking. Finally, front setbacks are all taken from streets that are internal to the Heritage Village site. Potential impacts to the surrounding neighborhoods are expected to be negligible.

It appears the original plat was created for the smaller, single wide manufactured homes of the time. Since 1983, manufactured homes have gotten larger and it is increasingly difficult to situate replacement units on these lots. In order to help preserve this existing, relatively affordable housing option while still maintaining health and safety requirements, staff recommends adding a footnote to the manufactured home subdivision table, in CDC Section 430-79.4 that allows the front yard setback to be reduced from the standard 10 feet to 5 feet for manufactured home parks constructed before 1983.

Summary of Proposed Changes

Ordinance No. 822 proposes to amend the following:

- Clarify school district documentation and notice requirements
- Clarify limits on plan amendments for property designated as urban or rural reserves in compliance with state law
- Update a reference to Metro’s Urban Growth Management Functional Plan for “Area of Special Concern 4” regarding Industrial Lands
➢ Require a neighborhood meeting when a Type II or III Commercial, Institutional or Industrial use is proposed within 125 feet of a residential area

➢ Change appeal authority for Type III Transit Oriented developments to be the same as other Type III land use application appeals

➢ Allow heat pumps and air conditioning units in the required residential side yard

➢ Allow a front yard setback of 5 feet in manufactured home parks developed before 1983, if approved by the Building Official