



MIKE MCCALLISTER  
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

**Date:** December 7, 2016

**To:** Board of County Commissioners, Clackamas County

**From:** Martha Fritzie, Senior Planner  
Nathan Boderman, Assistant County Council

**File Number:** Z0490-13-CP, Z0491-13-ZAP; Remand response, LUBA 2014-069

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On December 14, 2016, the Board of County Commissioners (BCC) will conduct the continuation of the October 26, 2016 land use hearing for the proposed response to a LUBA remand of a previously approved Comprehensive Plan map change and accompanying zone change for a portion of the property that houses the Hal's Construction business. The continued hearing will be limited to deliberation and decision by the BCC. Since this hearing was rescheduled from the original November 2, 2016 date, the county was required to send a notice of the new hearing date to all interested parties and agencies and property owners within 500 feet of the subject property. This required notice was sent on November 8, 2016.

Staff prepared a brief memorandum for the BCC, dated November 1, 2016, which discussed the issue that came up at the October hearing regarding whether the newly amended version of OAR 660-004-0018 applies to this application. As noted in the memorandum, it does, and therefore it is not necessary for these applications to be resubmitted in order to be considered under the current version of OAR 660-004-0018, as was suggested at the hearing. With this issue resolved, and the record closed to the submission of new information, this hearing has been scheduled for the BCC to make a decision regarding this application.

The BCC has the following three options for a decision:

1. Approve the application, subject to the *Revised Conditions of Approval*, and adopt the Board Order (attached to this document) at the December 14, 2016 hearing. The Findings that would accompany the Board Order would include those found in the draft *Findings and Conclusions on Remand* submitted by the applicant and the *Planning Staff Report and Recommendations to the BCC*. This option is the applicant's preference in order to finish this process with the same Board that originally heard and decided on this application.
2. Approve the application, subject to the *Revised Conditions of Approval*, at the December 14, 2016 hearing, but instruct Staff and the applicant to refine and finalize the Findings and return at a later date to adopt the Board Order and Findings. This is the typical practice for land use applications reviewed by the BCC and would be Staff's recommendation in the event the Board approves the application. Adopting refined findings at a later date would also be necessary if the Board wishes to modify any proposed condition of approval.
3. Deny the application at the December 14, 2016 hearing and instruct Staff to develop Findings supporting the denial and return at a later date to adopt the Board Order and Findings.

In the Matter of a Comprehensive  
Plan Amendment and Zone Map Amendment  
from Bruce Goldson, Theta, LLC, on property  
described as T3S R2E Section 16D,  
Tax Lots 1000, 1001, 1002, 1100 and 1101

ORDER NO.

File Nos.: Z0490-13-CP and Z0491-13-Z

This matter coming regularly before the Board of County Commissioners on remand from the Oregon Land Use Board of Appeals [LUBA No. 2014-069, *aff'd* by the Oregon Court of Appeals (No. A158369)] and it appearing that Bruce Goldson, Theta, LLC made application for a Comprehensive Plan Amendment from Rural to Rural Industrial and a corresponding zoning map amendment from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RI (Rural Industrial) on property described as T3S R2E Section 16D, Tax Lots 1000, 1001, 1002, 1100 and 1101, located approximately 0.20 miles south of the intersection of S. Highway 213 and S. Henrici Road and more commonly referred to as 20646 & 20666 S. Highway 213, Oregon City, Oregon 97045; and

It further appearing that the planning staff, by its report dated October 19, 2016, recommended approval of the application with revised conditions of approval; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on October 26, 2016 at which testimony and evidence were presented, and that a decision was made by the Board, by the vote of \_\_\_\_\_ on December 14, 2016 to approve the application, with the Comprehensive Plan Amendment and Zone Map Amendment limited to that area identified in Order Exhibit B, which is attached to this order and incorporated herein by reference.

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

1. The applicant requests approval of a Comprehensive Plan Amendment from Rural to Rural Industrial and a corresponding zoning map amendment from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RI (Rural Industrial).
2. This Board adopts as its findings and conclusions in response to the remand the *Planning Staff Report and Recommendation to the Board of County Commissioners* document, which is dated October 19, 2016 and which is attached hereto and incorporated herein as Order Exhibit A, which finds the application to be in compliance with the applicable criteria.

In the Matter of a Comprehensive  
Plan Amendment and Zone Map Amendment  
from Bruce Goldson, Theta, LLC, on property  
described as T3S R2E Section 16D,  
Tax Lots 1000, 1001, 1002, 1100 and 1101

ORDER NO.  
(Page 2 of 2)

File Nos.: Z0490-13-CP and Z0491-13-Z

3. This Board also finds that the “fixed goal post rule” established by ORS 215.427(3) does not apply to an application for a zone change where (1) that application for a zone change is part of, or submitted concurrent with, an application for a comprehensive plan amendment, and (2) the zone change is requested to implement the requested comprehensive plan amendment rather than as a separate request that could be approved independently of the requested comprehensive plan map amendment. *Friends of the Applegate v. Josephine County*, 44 Or LUBA 786 (2003). Therefore, it is not necessary for the applications being reviewed under Z0490-13 and Z0491-13, which include both a comprehensive plan amendment and a zone change, to be resubmitted in order to be considered under the current version of OAR 660-004-0018,
4. This Board also finds that in addition to those findings on Page 7 of the *Planning Staff Report and Recommendation to the Board of County Commissioners*, in its discretion in interpreting Policy 4.MM.3, the “area” rezoned under the relocated driveway has a historical commitment under this policy because of the evidence of use in this record, including the aerial photographs in Exhibit 4 of the original application; discussion by Staff during the original hearing and written testimony in Exhibits 16 and 20 of the original application.

NOW THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive Plan Amendment and Zone Map Amendment is hereby APPROVED, limited to that area identified in Order Exhibit B, and subject to the revised conditions of approval as contained in Order Exhibit C, which is attached to this order and incorporated herein by reference.

DATED this 14th day of December, 2016

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary



CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND  
DEVELOPMENT  
PLANNING & ZONING DIVISION  
150 Beaver Creek Rd, Oregon City, OR 97045  
Phone: (503) 742-4500

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NAME: Brian King / Hal's Construction Inc.  
FILE NO: Z0490-13-CP, Z0491-13-ZAP, Remand at LUBA 2014-069  
REPORT AUTHOR: Martha Fritzie, Sr. Planner/ Planning & Zoning Division, DTD  
HEARING DATE: Board of County Commissioners – October 26, 2016  
REPORT DATE: October 19, 2016

**PLANNING STAFF REPORT AND RECOMMENDATION  
TO THE BOARD OF COUNTY COMMISSIONERS**

**Response to Remand at LUBA No. 2014-069**

**GENERAL INFORMATION:**

Applicant: Bruce Goldson, Theta LLC, PO Box 1345, Lake Oswego, OR 97035

Owner: Doris M. Hickman Trustee, 20666 S. Molalla Ave., Oregon City, OR 97045

Proposal: Response to remand from LUBA (2014-069) regarding a previously-approved Comprehensive Plan Map Amendment from Rural to Rural Industrial and corresponding zone change from RRF-5 (Rural Residential Farm Forest 5-Acre) to RI (Rural Industrial) for a portion of the property located at 20646 & 20666 S. Highway 213, Oregon City.

Property Location: Approximately 0.20 miles south of the intersection of S. Highway 213 and S. Henrici Road

Legal Description: T3S, R2E, Section 16D, Tax Lots 1000, 1001, 1002, 1100, & 1101

Site Address: 20646 & 20666 S. Highway 213, Oregon City, Oregon 97045

Comprehensive Plan Designation: Rural

Zone: RRF-5

Total Area Involved: Approximately 8.15 acres.

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**RECOMMENDATION:**

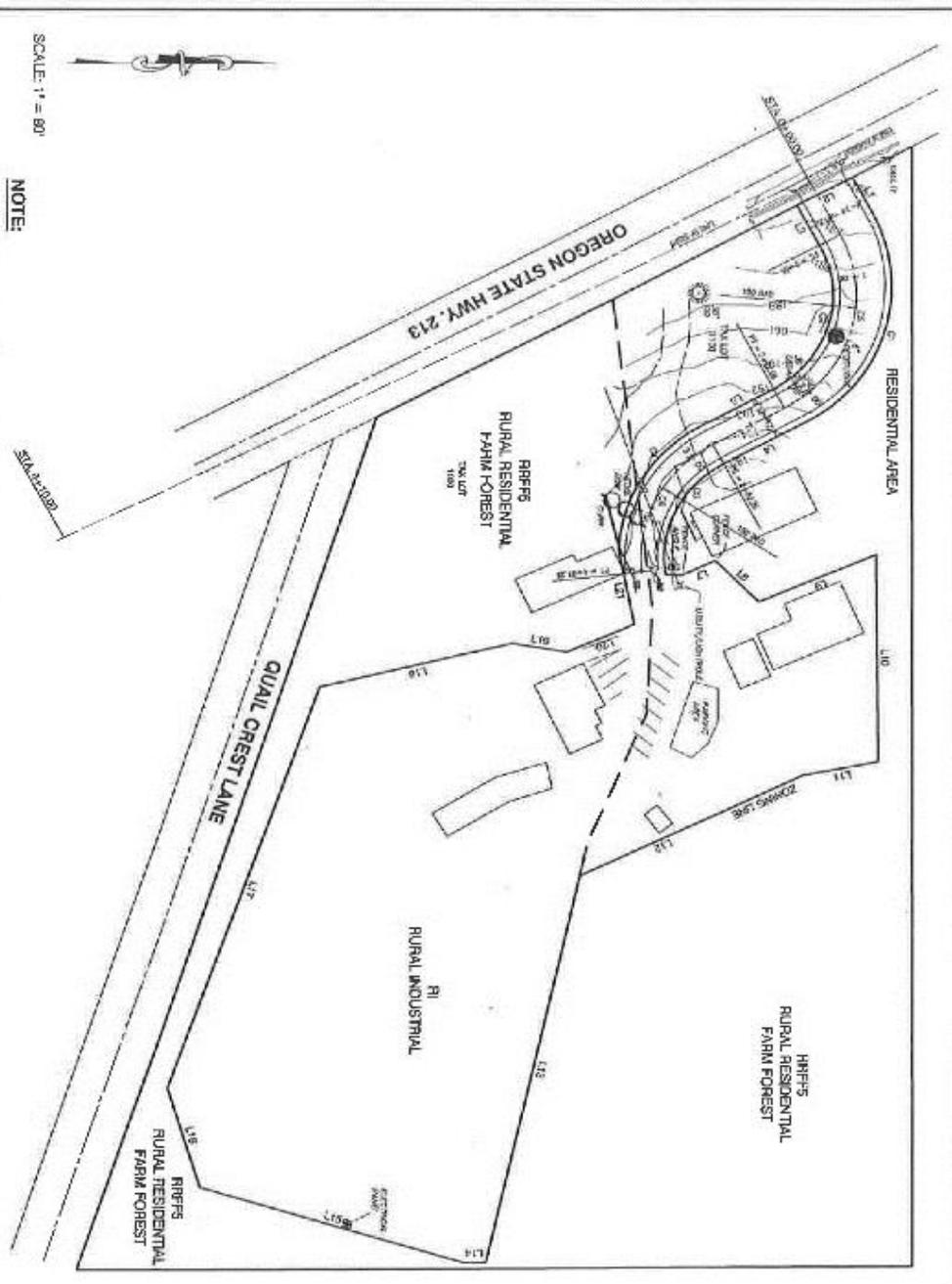
Approval of the Comprehensive Plan Map Amendment (File No. Z0490-13-CP) from Rural to Rural Industrial and zone change (File No. Z0491-13-Z) from RRFF-5 to RI subject to the Revised Conditions of Approval listed in Attachment 2.

Direct Staff to finalize the revised findings to include those described below and in Attachment 3, to address all the applicable assignments of error remanded in LUBA 2014-069, for submittal to LUBA.

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**BACKGROUND INFORMATION:**

1. This application is the outcome of several code compliance issues including solid waste, electrical work, building and zoning codes. All the code compliance issues have been resolved with the exception of alleged building code and zoning violations which will be addressed after a final decision on this application.
2. Site Description: The subject property is approximately 8.15 acres and consists of two “legal lots of record.” Tax lots 1000 and 1101 combined form one legal lot of record. Tax lots 1100, 1001 and 1002 combined form one legal lot of record. The property is developed with two single family dwellings, three accessory buildings, a sport court, parking and circulation areas, two driveways to Hwy. 213, landscaping and large groves of trees. The property is fairly level. The property has approximately 440’ of frontage on Hwy. 213, which is designated as a major arterial. A slatted cyclone fence borders the south side of the property adjacent to Quail Crest Lane.
3. Surrounding Conditions: All adjacent properties to the north, east, south and west on the west side of Highway 213 are zoned RRFF-5. This area consists of parcels ranging from approximately 2 acres to 40 acres in size. Most of the parcels are developed with single-family dwellings, with large wooded areas.
4. History of this application: On June 12, 2014, The Board of County Commissioners (BCC) approved a Comprehensive Plan map change from Rural (R) to Rural Industrial (RI) and a corresponding zone change from Rural Residential Farm Forest, 5-acre (RRFF-5) to Rural Industrial (RI) for a portion of the subject properties that contains an existing construction and vehicle maintenance business. That decision was subsequently appealed to the Land Use Board of Appeals (LUBA), identifying a total of 10 assignments of error. On November 20, 2014, LUBA issued a decision denying three of the 10 assignments of error (fourth, fifth, and sixth), and remanding all, or parts, of the remaining seven (7) assignments of error to the County. A limited portion of LUBA’s decision was appealed to the Oregon Court of Appeals. On April 1, 2015, the Court affirmed LUBA’s decision to remand the decision to the County. *Ooten v. Clackamas County*, 270 Or. App. 214 (2015).



SCALE: 1" = 80'

NOTE:  
1. BOUNDARY BASED ON RECORDED SURVEY PS 26399, JULY 1993.

2011-54

DESIGNER:	BGC
DRAWN:	BJS
SCALE:	1" = 80'
DATE:	APRIL 2014
FILE:	1816_Conrol_Survey_D

**meta-llc**  
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Hall's Construction  
20666 Highway 213  
Oregon City, Oregon

Clackamas County Land Use Application  
Z0490-13-CP, Z0491-13-Z

LINE	LENGTH	BEARING
L1	31.00	087°34'00"E
L2	48.00	228°11'00"E
L3	35.00	041°43'00"E
L4	58.18	N28°17'00"W
L5	80.18	N28°17'00"W
L6	11.81	S24°51'00"W
L7	27.48	S24°50'48"W
L8	48.10	S45°09'08"W
L9	84.02	S24°10'27"E
L10	124.50	060°03'00"E
L11	124.50	S10°58'57"E
L12	124.50	S10°58'57"E
L13	300.66	S10°58'57"E
L14	16.21	N02°18'18"W
L15	188.48	07°03'48"E
L16	81.50	02°00'00"E
L17	232.17	S77°20'50"W
L18	143.45	S17°45'50"W
L19	40.42	S27°48'02"W
L20	57.49	S27°51'28"E
L21	58.07	N78°44'18"E

CURVE	LENGTH	PIVOT'S
C1	186.50	130.00
C2	150.26	83.00
C3	102.89	53.00
C4	119.81	117.00
C5	137.08	100.00
C6	158.03	100.00

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Bruce D. Goldson*  
OREGON  
JULY 12, 1966  
BRUCE D. GOLDSON  
851  
EXPIRES: 06/30/2015

EXHIBIT B

5. Responses Requested: Notice of this hearing was sent to the parties listed below, on September 21, 2016.
  - a. City of Oregon City
  - b. Oregon City School District #62
  - c. Clackamas County RFPD #1
  - d. Hamlet of Beavercreek
  - e. DTD, Code Enforcement
  - f. DTD, Traffic Engineering
  - g. Water Environment Services, Soils Division
  - h. Oregon Dept. of Transportation
  - i. Dept. of Land Conservation and Development
  - j. Clackamas River Water District
  - k. Property owners within 500'
  - l. All parties who requested the original notice of decision in 2014

The notice clearly advised recipients that written and verbal testimony at the public hearing must be limited to, and directed towards, one of the seven assignments of error subject to the remand. To date, no responses have been received.

6. CPO Recommendation: The subject property is located in the Hamlet of Beavercreek. To date, the Hamlet of Beavercreek has not submitted comments regarding the issues on remand from LUBA (2014-069).
7. Attachments: See BCC Staff Summary for complete list of Attachments in this BCC hearing packet.

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**ASSIGNMENTS OF ERROR ADDRESSED (LUBA 2014-069):**

The following discussion summarizes Staff's analysis of the applicant's proposed *Findings and Conclusions on Remand*, Draft October 16, 2016 (attached), as they relate to each of the Assignments of Error remanded by LUBA (2014-069).

1. First Assignment of Error: The current Plan designation of the subject property is Rural, which is "exception land" (Clackamas County Comprehensive Plan (CCCP), Chapter 4) meaning that an exception to Statewide Planning Goals 3 and 4 has already been taken on this land, when it was originally zoned in 1980. In this Assignment of Error, LUBA found that the county had not established that redesignating the property to allow industrial uses, however, does not require a new exception to Statewide Planning Goals 3 and 4 because the county did not demonstrate which particular uses were included in the 1980 exception to designate this land Rural. LUBA's conclusion was based largely on the fact that the specific language that existed at the time of the appeal in OAR 660-004-0018(2) necessitated that a "physically developed" or "irrevocable committed" goal exception meet all the criteria listed under subsections

(a) (b) (c) and, if applicable, (d).<sup>1</sup> Specifically, subsection (a) required the proposed uses be “the same as the existing land uses on the exception site”. LUBA concluded that a remand was necessary for the county to determine “*whether the RI plan and zone designation allows uses that are “the same as the existing land uses on the site’ as required by OAR 660-004-0018(2).”* LUBA 2014-069, at 10-11.

As noted in the applicants proposed *Findings and Conclusions on Remand* “ in House Bill 3214 the 2015 Oregon Legislature directed LCDC as follows: “*The [LCDC] shall adopt or amend rules regarding the statewide planning goal criteria described in ORS 197.732(2)(a) and (b). The rules adopted or amended pursuant to this subsection must allow a local government to rezone land in an area physically developed or committed to residential use, as described in ORS 197.732, without requiring the local government to take a new exception to statewide planning goals related to agricultural and forest lands. The rules must allow for a rezoning that authorizes the change, continuation or expansion of an industrial use that has been in operation for the five years immediately preceding the formal land use planning action that was initiated for the change, continuation or expansion of use.”* HB 3214. The stated Legislative Intent of HB3214 was to eliminate the requirement to take Goal 3 and 4 exceptions for land that has been physically developed or irrevocably committed to non-resource use which had never been zoned for agricultural or forest uses.

In response to HB 3214, LCDC amended OAR 660-004-0018(2) to allow properties which are “physically developed” or “irrevocably committed” to non-resource uses to satisfy (a) or (b) or (c) and, if applicable, (d).<sup>2</sup> The new rule language no longer requires compliance with all subsections of Section -0018(2) simultaneously to avoid a Reasons Exception under Section -0018(4).

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<sup>1</sup>At the time of the original application, OAR 660-004-0018 (2) read: ‘For “physically developed” and “irrevocably committed” exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

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

(b) That meet the following requirements:

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

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

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

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, “Planning and Zoning of Unincorporated Communities”, if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22; and

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.’

<sup>2</sup> Currently OAR 660-004-0018(2) reads: ‘For “physically developed” and “irrevocably committed” exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to *those that satisfy (a) or (b) or (c) and, if applicable, (d):*’ [emphasis added] with (a) through (d) as above in footnote 1.

It is clear from the staff report issued by DLCDC regarding the change from “and” to “or” in OAR 660-004-0018(2) that DLCDC believed this was the only change necessary to address not only the specific issue of industrial uses HB 3214, but the need for another goal exception in other similar situations as noted: “*HB 3214 requires the commission to essentially change the “and” back to and “or” for a narrowly defined situation: ‘the change, continuation or expansion of an industrial use that has been in operation for the five years immediately preceding the formal land use planning action that was initiated for the change, continuation or expansion of use.’ The department proposed that the change be made for all “physically developed” and “irrevocable committed” exception areas.*” And further, DLCDC states regarding areas already acknowledged as exception areas, that to “*require a local government to again demonstrate compliance with these criteria is unnecessarily burdensome for the applicant and local government and introduces approval criteria that may not be suitable for the proposal.*” (Pg. 3-4, Staff Report, “Agenda Item 6, January 14, 2015, LCDC Meeting”, Attachment 5)

Therefore, despite the LUBA decision requiring a look at the 1980 decision and a possible reasons exception, the language and intent of House Bill 3214 and the resulting amendments to OAR 660-004-0018(2) removed that necessity. Staff concurs with the applicant that this First Assignment of Error has effectively been resolved by the State’s actions.

2. Second Assignment of Error: LUBA determined that the County’s adoption of Conditions 2 and 3 (see Attachment 6f), which result in the relocation of the driveway to the location depicted on page 3 of this staff report, must explain how that portion of the property satisfies the applicable CCCP Rural Industrial Policy 4.MM.3 (previously numbered 3.0), which requires an “historical commitment to industrial uses” in order to qualify for the RI Plan designation. The driveway is required to relocate in order to comply with sight distance safety standards according to ODOT and AASHTO standards, as per CCCP Policy 5.O.4, which requires that changes in Comprehensive Plan designation and zoning designation to comply with the Transportation Planning Rule (OAR 660-12).

Because the driveway is being used to access industrial uses, which are not allowed in the current zone, it too needs to be re-zoned to RI, which leaves the county to assess two applicable and seemingly conflicting standards for the driveway. On the one hand, rezoning the driveways in their present locations is permissible because the existing driveways have a clear historical commitment to industrial uses for over 45 years under Policy 4.MM.3(a), as noted in the findings on pages 24 and 25 of the Original Order (Attachment 6f). On the other hand, although permissible, leaving the site access in its present, longstanding condition permanently would not provide the County and applicant with an opportunity bring the site into compliance with current transportation safety standards. Staff finds, however, that compliance with both these policies may not necessarily present a conflict.

Staff agrees with the applicant’s findings which state:

- *when balancing the interests of the County and State in promoting transportation safety where large trucks and trailers enter and exit a rural, high traffic major*

*arterial near the crest of a hill against rezoning the driveway in its present location, that safety and public concern is of highest importance.*

- *that the county could rezone the driveway access in its present location and not require relocation because a development application is not pending with the zone change.*
- *Conditions of Approval 2 and 3 which require relocation of the driveway access within one year should remain in force which provides the applicant and the public at large travelling on a State Highway with increased transportation safety.*
- *when the driveway is abandoned in its present location and relocated according to Conditions of Approval 2 and 3 to promote transportation safety, the decades of long standing historical commitment to industrial uses at the driveway's present location must be balanced against the interest of the County and State in providing safe public transportation facilities-and that long standing commitment supports the finding of rezoning the driveway in its future location under the Board's sound interpretation of its own Policy [4.MM.3](a), and its interest in protecting the public welfare and safety.*

Indeed, the driveway is a part of the documented "historical use" and is in fact a necessary portion of this historic commitment.

In balancing the requirements under the Plan policy 4.MM.3 with safety requirements under ODOT and AASHTO and Policy 5.O.4, it is easy to reasonably conclude that the driveway use itself does meet the historical commitment standard required for the rezoning it to RI and therefore if safety reasons require it to be moved 100 feet, that historic commitment still stands for the use itself. Further, LUBA affords the Board of County Commissioners discretion to define the "area" for the re-zone, stating that "*LUBA must defer to the county commissioners' interpretation unless it is implausible*" (LUBA2014-069, p.12) and confirmed the Board's interpretation in this case of the subject property being the appropriate "area" to consider for evaluation under Policy 4.MM.3. It follows then that if the driveway use itself constitutes an historical commitment and the "area" under consideration really includes the entire subject property, then moving the use within this "area" and rezoning the portion of that "area" where historically committed use is moving, would in fact comply with Policy 4.MM.3. Staff finds that the "area" which includes the driveway, be it in its current location or in a different location within the same subject property, constitutes and appropriate "area" for the rezoning. Therefore the Second Assignment of Error is satisfactorily addressed.

3. Third Assignment of Error: LUBA found that the county's findings were inadequate to address whether the proposed RI designation was consistent with the rural character of the area and particularly the adjacent RRFF-5 zoned parcels and that the proposed use is consistent with the requirement that the RI designation is "not labor intensive."

The Rural Industrial section of the Land Use Chapter of the Clackamas County Comprehensive Plan, Section 4.MM.1 (formerly numbered 1.0), provides: "The Rural

Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with the rural character, rural development, and rural facilities and services.”

To supplement the findings, the applicant addresses these issues with the following information:

- *All adjacent and surrounding properties to the north, east, south and west, on the west side of Highway 213 are zoned RRFF-5 and are developed with residential, commercial and industrial uses. Record 95 (hearing). Exhibit 1, Page 5. These properties have a rural character. Public services to the site are limited to public water provided by the Clackamas River Water District. The property is not located in a public sewer or surface water district. Services to the area include garbage service and sheriff patrol services. Record 30.*
- *Hal’s Construction is a pavement contracting business which employees up to 40 employees in peak summer months and approximately half that in the winter with nearly all employees working at construction sites, rather than at the property itself, where only office operates and storage and maintenance of the equipment and vehicles associated with the business. Exhibit 1 (Record 1122).*
- *The building on the subject property does not generate impacts from noise, fumes or other impacts aside from its visual appearance. The design and size of the buildings onsite is consistent with the rural character and existing development in the area. There are several similar structures on surrounding properties. Record 650.*

In addition, according to the Clackamas County Comprehensive Plan (CCCP) the proposed RI designation is, by its definition, not labor intensive and is consistent with the rural character of the area. The uses proposed at the subject property are allowed in the RI zone and can therefore also be considered consistent.

Staff finds the analysis provided by the applicant are sufficient to justify the conclusion that the proposed/existing uses are “rural in nature” and “not labor intensive;” particularly, while there may be up to 40 employees employed by Hal’s Construction, many employees are seasonal or work off-site; the only employees that are consistently on-site consists of clerical and equipment servicing and is only ancillary to the offsite work and is, therefore, not labor intensive. The Third Assignment of Error is satisfactorily addressed.

4. Seventh Assignment of Error: LUBA concluded that the county committed a procedural error when it accepted Exhibit B (the depiction of the relocated driveway) after the record closed and relied on Exhibit B, when the exact location of the driveway had not been previously determined. On remand, LUBA determined that the county must allow adequate opportunity for response to the evidence in Exhibit B. The county should allow adequate opportunity to respond to the proposed driveway location, the exact location of which first appeared as an attachment to the final decision

The applicant's analysis correctly notes:

- *The subject property has two driveways which provide direct access to State Highway 213. Revised TIA, Page 4. Exhibit 1, Page 4.*
- *Both driveways must have inadequate sight distance to the south according to ODOT standards. To comply with the standard, the applicant proposed to remove both driveways and construct one new driveway further north based on ODOT safety requirements for sight distance.*
- *The proposed location for the new driveway is set out in Exhibit B to the County's Order and was sent out with the Notice for the Remand Hearing [on September 21, 2016].*

This assignment of error is easily addressed by the fact that Exhibit B, the map showing compliance with the Oregon Department of Transportation's relocation for driveway access was distributed with the Notice for the remand hearing which provides for adequate notice and opportunity to respond to the new evidence in the record. The Seventh Assignment of Error is satisfactorily addressed.

5. Eighth Assignment of Error: LUBA found that the County's decision to limit the uses of the site to "the same as the existing land uses" was inconsistent with those allowed under original Order, Exhibit C, Condition No. 1, referencing Table 604-1, Construction and Maintenance Contractors, except that building movers shall not be a permitted use and determined that the county needs to clarify which uses are allowed. This determination is largely because of the need at the time under OAR 660-004-0018(2) to meet all of the criteria, which required the uses be limited to those that are the same as the existing (OAR 660-004-0018(2)(a)).

As discussed above, HB 3214 and the subsequent amendments to OAR 660-004-0018(2) provide that jurisdictions are no longer required to limit zone changes to the same as those existing on the site at the time of application.

Therefore, despite the LUBA decision requiring more a more detailed description of the uses approved under this decision, the language and intent of House Bill 3214 and the resulting amendments to OAR 660-004-0018(2) removed that necessity as the approval of the zone change is no longer required to be limited to the same uses as the existing uses; rather the uses will remain limited to those uses set forth in Table 604-1, Paragraph A, Construction and Maintenance Contractors, except building movers (see Condition 1) in an effort to ensure continued compatibility with neighboring uses, which are primarily rural residences. Therefore, this Eighth Assignment of Error has effectively been resolved by the state's actions.

6. Ninth Assignment of Error: The LUBA decision required a revised Traffic Impact Analysis (TIA), which compares the most traffic generative uses in the RRFF-5 and RI zones to determine whether or not mitigation efforts need to be increased. Also, Conditions 4, 5, and 6 (see BCC Board Order 2014-46, Attachment 6f) must be revised so that mitigation triggers are certain to occur.

A revised TIA was completed and submitted to the county in July 2016; a copy was provided with the public notice sent out on September 21, 2016 and is found in Attachment 6c. The revised TIA did provide the required analysis comparing the most traffic generative uses in the RRFF-5 and RI zones. The applicant provides the following analysis regarding the TIA and implications on the mitigation required in Conditions 4, 5, and 6.

*As the County previously found, the increased traffic under the RI zone would significantly affect two transportation facilities near its frontage on State Hwy 213, a major arterial. This highway is under the jurisdiction of the ODOT and the Transportation Planning Rule applies. The impact area for this application includes the intersection of Hwy 213 at Henrici Road and Hwy 213 at the site access.*

*According to the Revised TIA, comparing the most traffic generative uses in the RRFF-5 and RI zones according to LUBA's direction, the mitigation efforts set forth in Conditions 4, 5, and 6, previously adopted by the County, are sufficient to comply with the Transportation Planning Rule. Revised TIA, at 3, 20 and 21. Similarly, the traffic engineer's recommendations for mitigation, summarized at pages 20 and 21 of the Revised TIA, address the recommended mitigation and ensure compliance with the Transportation Rule.*

*The LUBA found that "conditions with timing elements are an acceptable method of mitigation of traffic impacts." LUBA 2014-069, at 26-27. The County and applicant agree that the conditions of approval regarding mitigation should be imposed with a timing element so there is no question as to what triggers the required mitigation and improvement efforts.*

As noted by the applicant, the mitigation set forth in the revised Conditions 4, 5, and 6 (Attachment 2) are adequate to ensure transportation safety under the rule. Per the direction of LUBA, these conditions have been revised to contain a timing element: Conditions 4, 5, and 6 are to be completed by the Applicant within 1 year of the final approval of Z0490-13 and Z0491-13. Therefore, the Ninth Assignment of Error is satisfactorily addressed.

7. Tenth Assignment of Error: LUBA found that the County must adopt findings that ensure the zone change is compliant with the county's Zoning & Development Ordinance (ZDO), Section 1202.031(E) [formerly numbered 1202.01(E)], which requires that the "[s]afety of the transportation system is adequate to serve the level of development anticipated by the zone change," and specifically address whether relocating the driveway access would cause safety issues for the properties located to the north and across Hwy 213.

The applicant notes that in the revised TIA, the transportation engineer's safety analysis (page 11-12) addresses safety, crash history and recommended safety improvements, including the need to relocate the driveway access northerly because of sight-distance concerns. The engineer and County also recommend a southbound left turn lane at the relocated driveway access to serve traffic entering the site in order to

address any safety issues for the properties to the north and across Hwy 213 as a result of relocating the driveway access.

The revised TIA, prepared by Lancaster Engineering addresses safety concerns from the relocation of the driveway access for the site and that imposing Conditions of Approval 4, 5 and 6 to be completed within one year ensures that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change according to ZDO 1202.03(E), including ensuring the safety of driveways north of and across the highway from the subject property. The Tenth Assignment of Error is satisfactorily addressed.

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**CONCLUSION:**

The additional evidence and findings provided by the applicant are sufficient to address the Seven Assignments of Error remanded in LUBA, 2014-069.

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**ORDER EXHIBIT A – FINDINGS AND CONCLUSIONS ON REMAND**

**File No. Z0490-13-CP and Z0491-13-Z**

**Remanded at LUBA No. 2014-069**

**GENERAL INFORMATION:**

Applicant: Bruce Goldson, Theta LLC, PO Box 1345, Lake Oswego, OR 97035

Owner: Doris M. Hickman Trustee, 20666 S. Molalla Ave., Oregon City, OR 97045

Proposal: Comprehensive Plan Map amendment from Rural to Rural Industrial. Corresponding Zone Change from RRFF-5 (Rural Residential Farm Forest 5-Acre) to RI (Rural Industrial).

Location: Approximately 0.20 miles south of the intersection of S. Highway 213 and S. Henrici Road

Legal Description: T3S, R2E, Section 16D, Tax Lots 1000, 1001, 1002, 1100 & 1101

Site Address: 20466 and 20666 S. Highway 213, Oregon City, Oregon 97045

Comprehensive Plan Designation: Rural

Zone: RRFF-5

Total Area Involved: Approximately 8.15 acres

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**BACKGROUND INFORMATION:**

On June 12, 2014 the Board of County Commissioners (BOCC) approved a Comprehensive Plan map change from Rural (R) to Rural Industrial (RI) and a corresponding zone change from Rural Residential Farm Forest, 5-acre (RRFF-5) to Rural Industrial (RI) for a portion of the subject properties that contains an existing construction and vehicle maintenance business. Subsequent to that approval, the decision was appealed to the Land Use Board of Appeals (LUBA), identifying a total of ten assignments of error. On November 20, 2014, LUBA issued a decision denying three of the ten assignments of error (four, five and six) and remanding all, or a portion of the remaining seven assignments of error to the County at LUBA No. 2014-069. A limited portion of LUBA's decision was appealed to the Oregon Court of Appeals. On April 1, 2015 the Court affirmed LUBA's decision to remand the decision to the County at *Ooten v. Clackamas County*, 270 Or.App. 214 (2015). On April 24, 2015, the Oregon Legislature issued House Bill 3214 which addressed Statewide Planning Goals exceptions requiring LCDC to adopt new Goals

exception rules. The intent of HB 3214 was to eliminate the requirement to take exceptions to Planning Goals protecting agricultural and forest uses for zone changes to land physically developed or irrevocably committed to non-resource use so long as that land was never zoned for agricultural or forest uses. The new LCDC rules change the requirements for Goals Exceptions under OAR 660-004-0018(2).

**FIRST ASSIGNMENT OF ERROR:** Goals Exception, House Bill 3214 and amendments to OAR 660-004-0018(2).

- a. *Standard:* The LUBA found that the a reasons exception to Statewide Planning Goals 3 and 4 would be required if the County could not determine, in the previous words of OAR 660-004-0018(1) and (2), that the proposed uses for the property under the RI designation were the same as the existing land uses when the property was zoned in 1980. LUBA 2014-069, at 10-11. Despite the LUBA decision requiring a look at the 1980 decision and a possible reasons exception, the Board finds that the language and intent of House Bill 3214 and the resulting amendments to OAR 660-004-0018(2) do not require such a determination.
- b. *Analysis:*
  - i. In House Bill 3214 the Oregon Legislature directed the LCDC as follows: “The [LCDC] shall adopt or amend rules regarding the statewide planning goal criteria described in ORS 197.732(2)(a) and (b). The rules adopted or amended pursuant to this subsection must allow a local government to rezone land in an area physically developed or committed to residential use, as described in ORS 197.732, without requiring the local government to take a new exception to statewide planning goals related to agricultural and forest lands. The rules must allow for a rezoning that authorizes the change, continuation or expansion of an industrial use that has been in operation for the five years immediately preceding the formal land use planning action that was initiated for the change, continuation or expansion of use.” HB 3214. The stated Legislative Intent of HB3214 was to eliminate the requirement to take Goal 3 and 4 exceptions for land that has been physically developed or irrevocably committed to non-resource use which had never been zoned for agricultural or forest uses.
  - ii. The LCDC amended OAR 660-004-0018(2) to allow properties which are physically developed or irrevocably committed to non-resource uses “**to those that satisfy (a) or (b) or (c) and, if applicable, (d).**” The new rule language no longer requires compliance with all subsections of Section -0018(2) simultaneously to avoid a Reasons

Exception under Section -0018(4), according to the intent of the Oregon Legislature in HB 3214.

- iii. It is undisputed that the subject area was never zoned for agricultural or forest use because the County zoned the subject property RRF-5 and designated it Rural in 1980. Original Order, at page 5.
- iv. On appeal, the LUBA addressed the adequacy of the County's findings that OAR 660-004-0018(2)(b)(A)-(C) is satisfied. The County previously found:

“The proposal is consistent with OAR 660-004-0018 because:

- a. The Board has limited the uses of the site to the same as the existing land uses. See Order Exhibit C, condition no.1. The applicant has proposed to continue the existing uses on the property. No new uses have been identified or proposed that require further analysis to determine if they are ‘rural’ in nature.
  - b. The County's Rural Industrial Plan designation and implementing RI zoning district has recently been amended and acknowledged to be in compliance with Statewide Planning Goals 11 and 14.
  - c. The findings addressing Statewide Planning Goals 11 and 14 demonstrate that the rural uses, density and public facilities will maintain the land as rural land. The property is not located in a public sewer or surface water district. The Rural Industrial Plan designation will not require or allow the extension of public sewer to the property. The existing uses and limited future uses contemplated for the property will not require the provision for extension of additional public services and facilities. The record demonstrates the rural uses, density and public facilities will not commit adjacent or nearby resource lands to other uses because there are no resource lands in adjacent or close to the subject property.” Original Order, at 12.
- c. *Findings and Conclusions:* The Board adopts its previous findings relating to compliance with OAR 660-004-0018. It further finds that the Oregon Legislature intended to change Statewide Planning Goals exception requirements and eliminate the requirement to take Goal 3 and 4 exceptions for land that has been physically developed or irrevocably committed to non-resource use which had never been zoned for agricultural or forest uses, as in the present case where the subject property was never zoned for such resource uses. It further finds that its original findings, together with the LUBA's determination at LUBA 2014-069,

Page 9: “We think the county’s findings are adequate to explain why the RI plan and zone designations meet OAR 660-004-0018(2)(b)(A)-(C). Accordingly, petitioner’s challenge to the county’s findings adopted in response to OAR 660-004-0018(2)(b)(A)-(C) provides no basis for reversal or remand” show that an exception to Goals 3 and 4 is not required because the revised language of OAR 660-004-0018 is satisfied.

**SECOND ASSIGNMENT OF ERROR:** Future driveway relocation and ODOT/AASHTO safety requirements.

- a. *Standard:* The LUBA determined that the County’s adoption of Condition No. 2 which relocates the driveway access to the site for safety reasons must explain how that portion of the property satisfies the applicable Rural Industrial Plan Policy 3.0. Condition 3 requires for safety reasons that the applicant permanently relocate the access to the site within one year of approval. The Oregon Department of Transportation (“ODOT”) standards require that when a development application is submitted to the County, the access to the site is to be relocated to comply with sight distance safety standards according to ODOT and AASHTO standards.
- b. *Analysis:* The proposed location of the future driveway access complying with sight distance standards is approximately 100 feet to the north of the northern existing driveway access to State Highway 213 according to the revised traffic study submitted by Lancaster Engineering (“Revised TIA”).
  - i. The Board finds that two applicable standards apply to the driveway in its present and relocated position. The ODOT sight distance safety standards applicable to Hwy 213 and the County’s historical commitment Policy 3.0(a).
  - ii. The Board finds that rezoning the driveway in its present location is permissible without a development application and that the existing driveways have a clear historical commitment to industrial uses for over 45 years under Policy 3.0(a), according to the lengthy findings at pages 24 and 25 of the Original Order. Although permissible, leaving the site access in its present, longstanding condition permanently would not provide the County and applicant with an opportunity bring the site into compliance with current transportation safety standards.
  - iii. Policy 14.0, Access Standards are applicable to this application, and requires that the County plan and control access onto roads within the County, as shown on Table V-5, for urban areas and according to the American Association of State Highway and Transportation Officials (AASHTO) guidelines for rural areas, for both new and existing uses, and coordinate with the Oregon Department of Transportation for access

control on state highways. The ODOT has recommended that the site access be relocated according to the analysis in the Revised TIA and Exhibit B to the Original Order.

- iv. According to its previous findings, the subject property has frontage on State Highway 213, which is classified as a major arterial. This highway is under the jurisdiction of the Oregon Department of Transportation (ODOT). Access to the property is subject to the requirements of ODOT and the Oregon Highway Plan. The subject property has two driveways which provide direct access to Hwy 213. The record demonstrates that neither driveway meets minimum sight distance standards to the south of the subject property due to a horizontal curve. The applicant has identified an alternate location for the driveway to the north of the existing driveways which meets minimum sight distance standards and agreed to close the two existing driveways. The proposed driveway complies with minimum sight distance standards and the applicant has agreed to a condition to construct the new driveway within one year of final approval. A corresponding condition of approval is included requiring removal of the existing northerly and southerly driveways. This condition will ensure the access location to the subject property for both the rural residential and rural industrial uses satisfies AASHTO minimum safety guidelines.
  - v. The nature of the vehicles entering and exiting the subject site, namely large trucks and trailers and the ability of a driver of such a vehicle to enter and exit the traffic flow on State Highway 213, a major arterial with high traffic volumes travelling at speed in a rural area over the crest of a hill requires that policies in Chapter 5 of the Comprehensive Plan promoting transportation safety be of utmost importance and of public concern when applying countervailing policies in the Clackamas County Comprehensive Plan.
- c. *Findings and Conclusions:* The Board finds when balancing the interests of the County and State in promoting transportation safety where large trucks and trailers enter and exit a rural, high traffic major arterial near the crest of a hill against rezoning the driveway in its present location, that safety and public concern is of highest importance. The Board finds that it could rezone the driveway access in its present location and not require relocation because a development application is not pending with the zone change. The Board finds that Conditions of Approval 2 and 3 which require relocation of the driveway access within one year should remain in force which provides the applicant and the public at large travelling on a State Highway with increased transportation safety. The Board further finds that when the driveway is abandoned in its present location and relocated according to Conditions of Approval 2 and 3 to

promote transportation safety, the decades of long standing historical commitment to industrial uses at the driveway's present location must be balanced against the interest of the County and State in providing safe public transportation facilities- and that long standing commitment supports the finding of rezoning the driveway in its future location under the Board's sound interpretation of its own Policy 3.0(a), and its interest in protecting the public welfare and safety.

**THIRD ASSIGNMENT OF ERROR:** RI use consistency with the rural character of the area and labor intensive uses.

- a. *Standard:* The Rural Industrial section of the Land Use Chapter of the Clackamas County Comprehensive Plan, Section 1.0, provides: "The Rural Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with the rural character, rural development, and rural facilities and services."
  - i. The Rural Industrial plan designation may be applied for industrial uses on the subject property if they are not labor intensive and consistent with the rural character of the area.
  - ii. The RI designation must be consistent with the rural character of the adjacent RRF-5 properties. LUBA found that the County should adopt findings that address the consistency of the proposed RI designation with the rural character of the area and address that the proposed RI designation is not labor intensive. LUBA 2014-069, at 16.
- b. *Analysis:*
  - i. All adjacent and surrounding properties to the north, east, south and west, on the west side of Highway 213 are zoned RRF-5 and are developed with residential, commercial and industrial uses. *Record 95 (hearing). Exhibit 1, Page 5.* These properties have a rural character. Public services to the site are limited to public water provided by the Clackamas River Water District. The property is not located in a public sewer or surface water district. Services to the area include garbage service and sheriff patrol services. Record 30.
  - ii. Hal's Constructions is a pavement contracting business which employs up to 40 employees in peak summer months and approximately half that in the winter with nearly all employees working at construction sites, rather than at the property itself, where only office operates and storage and maintenance of the equipment and vehicles associated with the business. Exhibit 1 (Record 1122).
  - iii. The building on the subject property does not generate impacts from noise, fumes or other impacts aside from its visual appearance. The design and size of the buildings onsite is consistent with the rural character and

existing development in the area. There are several similar structures on surrounding properties. Record 650.

c. *Findings and Conclusions:*

- i. The Board finds this extensive record shows Hal's Construction is a paving contractor where the company's work occurs offsite. While there may be up to 40 employees employed by Hal's Construction, the Board finds that any onsite labor consists of clerical and equipment servicing and is only ancillary to the offsite work and is, therefore, not labor intensive. Record 323. The Board finds that the area surrounding the site is developed with a mix of rural residential, commercial and industrial uses.
- ii. The Board finds that according to the Clackamas County Comprehensive Plan the proposed RI designation is not labor intensive and is consistent with the rural character of the area.

**SEVENTH AND TENTH ASSIGNMENTS OF ERROR:** Provide notice and adequate opportunity to respond to relocated driveway map.

- a. *Standard:* CCZO 1202.01(E) provides that in order to approve the zone change, the county must find that "[s]afety of the transportation system is adequate to serve the level of development anticipated by the zone change." LUBA required that the County allow adequate opportunity to respond to Exhibit B, the depiction of the relocated driveway.
- b. *Analysis:*
  - i. The subject property has two driveways which provide direct access to State Highway 213. Revised TIA, Page 4. Exhibit 1, Page 4.
  - ii. Both driveways must have inadequate sight distance to the south according to ODOT standards. To comply with the standard, the applicant proposed to remove both driveways and construct on new driveway further north based on ODOT safety requirements for sight distance.
  - iii. The proposed location for the new driveway is set out in Exhibit B to the County's Order and was sent out with the Notice for the Remand Hearing.
- c. *Findings and Conclusions:*
  - i. The Board finds that ODOT has determined that there is a suitable location to construct a driveway to meet the minimum sight distance standards. This location is set out in Exhibit B to the Order.
  - ii. The Board finds that Exhibit B, the map showing compliance with the Oregon Department of Transportation's relocation for driveway access was distributed with the Notice for the remand hearing which provides for adequate notice and opportunity to respond to the new evidence in the record.

**EIGHTH ASSIGNMENT OF ERROR:** Adequacy of site use limits.

- a. *Standard:* LUBA found that the County’s decision was inconsistent because it limited the uses of the site to “the same as the existing land uses” as well as those enumerated in the original Order, Exhibit C, Condition No. 1, referencing Table 604-1, Construction and Maintenance Contractors, except that building movers shall not be a permitted use.
- b. *Analysis:* As discussed above, House Bill 3214, which became effective on June 18, 2015, together with the LCDC amendments to OAR 660-004-0018(2) provides that Counties are no longer required to limit zone changes to the same as those existing on the site at the time of application.
- c. *Findings and Conclusions:* The Board finds that amendments to OAR 660-004-0018(2) required by the Oregon Legislature in HB 3214 provide that the existing condition of approval No. 1 regarding site use limits set forth in Table 604-1, Paragraph A, Construction and Maintenance Contractors, except building movers, is adequate because OAR 660-004-0018(2) permits the County to limit future uses to “those that satisfy (a) or (b) or (c), and, if applicable (d)” no longer requiring compliance with all subsections of Section -0018(2).

**NINTH ASSIGNMENT OF ERROR:** Mitigation based on a revised traffic study and Conditions of Approval 4, 5 and 6.

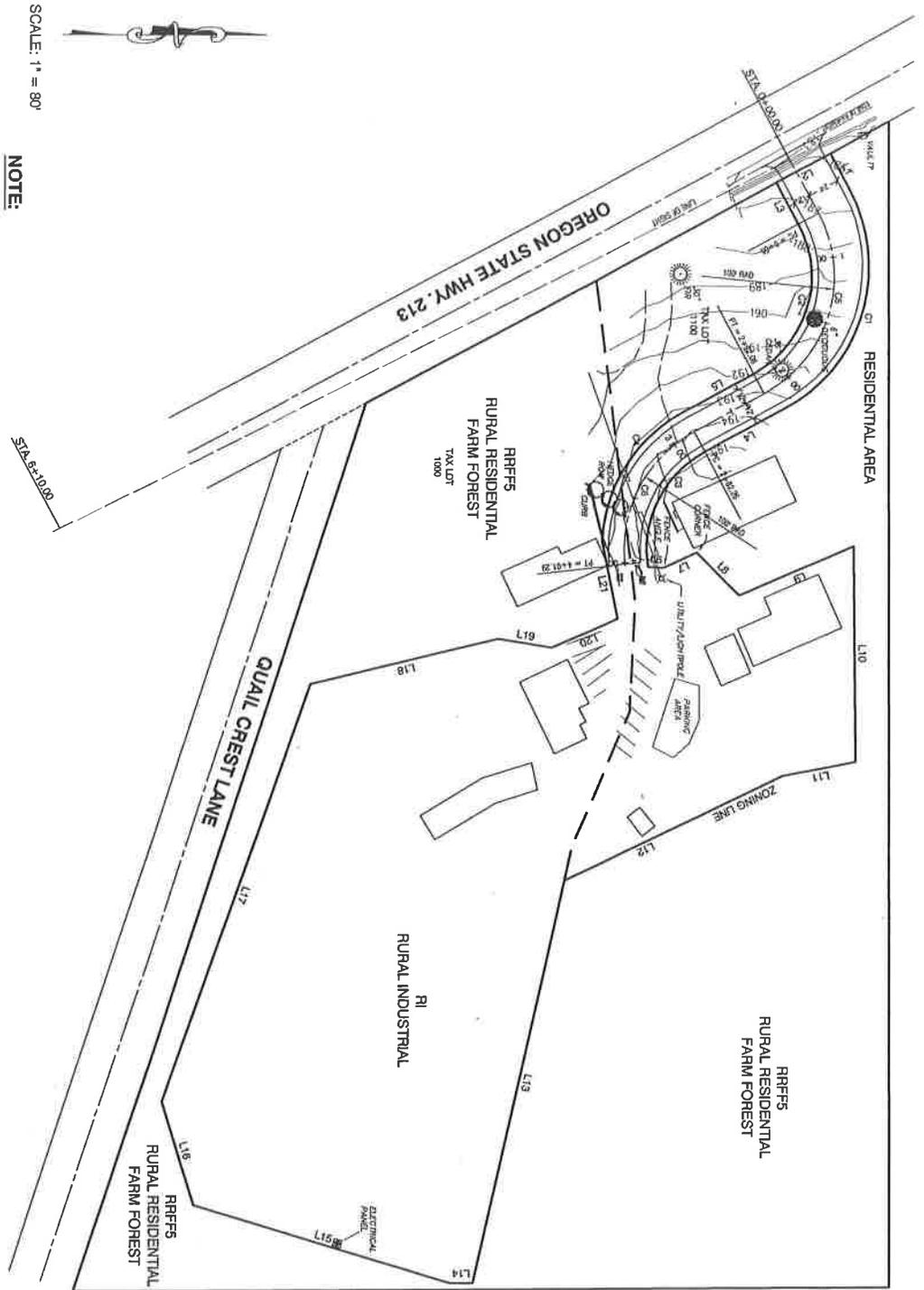
- a. *Standard:* The LUBA decision required a revised Traffic Impact Study to compare the current most traffic generative uses in the RRFF-5 and RI zones in order to determine whether or not mitigation efforts need to be increased. LUBA 2014-069, at 25. The LUBA also found that the decision did not explain the circumstances which trigger the new required improvements to the transportation system. LUBA 2014-069, at 26.
- b. *Analysis:* As the County previously found, the increased traffic under the RI zone would significantly affect two transportation facilities near its frontage on State Hwy 213, a major arterial. This highway is under the jurisdiction of the ODOT and the Transportation Planning Rule applies. The impact area for this application includes the intersection of Hwy 213 at Henrici Road and Hwy 213 at the site access. According to the Revised TIA, comparing the most traffic generative uses in the RRFF-5 and RI zones according to LUBA’s direction, the mitigation efforts set forth in Conditions 4, 5, and 6, previously adopted by the County, are sufficient to comply with the Transportation Planning Rule. Revised TIA, at 3, 20 and 21. Similarly, the traffic engineer’s recommendations for mitigation, summarized at pages 20 and 21 of the Revised TIA, address the recommended mitigation and ensure compliance with the Transportation Rule. The LUBA found that “conditions with timing elements are an acceptable method

of mitigation of traffic impacts.” LUBA 2014-069, at 26-27. The County and applicant agree that the conditions of approval regarding mitigation should be imposed with a timing element so there is no question as to what triggers the required mitigation and improvement efforts.

- c. *Finding and Conclusions:* The Board finds that mitigation set forth in Conditions 4, 5, and 6 are adequate to ensure transportation safety under the rule, and shall impose a timing element as directed by the LUBA. The Board finds that Conditions 4, 5, and 6 are to be completed by the Applicant within 1 year of this Decision.

**TENTH ASSIGNMENT OF ERROR:** Compliance with CCZO 1202.01(E).

- a. *Standard:* LUBA found that the County must adopt findings that ensure the zone change is compliant with CCZO 1202.01(E), which requires that the “[s]afety of the transportation system is adequate to serve the level of development anticipated by the zone change.” The LUBA also found that the Findings should address the issue as to whether relocating the driveway access would cause safety issues for the properties located to the north and across Hwy 213.
- b. *Analysis:* Based on the revised Traffic TIA prepared by Lancaster Engineering and provided with the remand Notice, the safety of the transportation system will be adequate to serve the level of development allowed under the proposed zone change. Revised Lancaster Report Page 4. Exhibit 1, Page 4. The study areas which include the site access on Hwy 213 and S. Henrici Road are currently operating acceptably with respect to safety and no mitigations are currently necessary but that Conditions 4, 5 and 6 will address any significant effect of the zone change on surrounding transportation facilities. Revised Lancaster Report, page 3. The transportation engineer’s detailed safety analysis, beginning on page 11 continuing through page 12 addresses safety, crash history and recommended safety improvements, including the need to relocate the driveway access northerly because of sight-distance concerns. The engineer and County also recommend a southbound left turn lane at the relocated driveway access to serve traffic entering the site in order to address any safety issues for the properties to the north and across Hwy 213 as a result of relocating the driveway access.
- c. *Findings and Conclusions:* The Board finds that the revised TIA, prepared by Lancaster Engineering addresses safety concerns from the relocation of the driveway access for the site and that imposing Conditions of Approval 4, 5 and 6 to be completed within one year ensures that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change according to CCZO 1202.01(E).



SCALE: 1" = 80'

NOTE: 1. BOUNDARY BASED ON RECORD SURVEY PS 25399, JULY 1993.

2011-54

DESIGNED:	BDS
DRAWN:	BJS
SCALE:	1" = 80'
DATE:	April 2014
FILE:	Hals Const Exhibit D

**Thetacore**  
ENGINEERING - SURVEYING - PLANNING  
P.O. Box 1346  
Las Olivos, Oregon 97035  
503/461-4822  
email: thetacore@comcast.net

Hals Construction  
20666 Highway 213  
Oregon City, Oregon

Clackamas County Land Use Application  
Z0490-13-CP, Z0491-13-Z

LINE TABLE

LINE	LENGTH	BEARING
L1	32.00	N81.4300°E
L2	48.00	S28.1200°E
L3	35.00	N81.4300°E
L4	69.18	N28.1200°W
L5	60.18	N28.1200°W
L6	11.51	S04.3108°W
L7	27.48	S24.5049°E
L8	45.40	S45.0928°W
L9	94.02	S23.1057°E
L10	163.00	N89.2000°E
L11	58.04	S10.5401°E
L12	182.04	S25.2330°E
L13	309.85	S77.2017°E
L14	18.73	N00°15.18'W
L15	199.98	N1.65748°E
L16	81.50	N73°08.35'E
L17	332.17	S70.2950°E
L18	143.43	S13.4529°E
L19	40.42	S09.4508°W
L20	53.49	S23.5122°E
L21	59.87	N78.4418°E

CURVE TABLE

CURVE	LENGTH	RADIUS
C1	188.50	120.00
C2	130.38	83.00
C3	102.89	83.00
C4	119.81	117.00
C5	187.08	100.00
C6	119.03	100.00

REGISTERED PROFESSIONAL LAND SURVEYOR  
BRUCE D. GOLDSON  
OREGON JULY 12, 1988  
51

EXPIRES: 06/30/2015

EXHIBIT B

## Order Exhibit C: Revised Conditions of Approval

### File No. Z0490-13-CP and Z0491-13-Z

1. Future uses of the property are limited to those identified in Table 604-1: Permitted Uses in the RI District, paragraph “A. Construction and Maintenance Contractors,” except for building movers, on the effective date of this order.
2. The applicant shall design and construct improvements that permanently close the existing southernmost driveway to Highway 213 in accordance with ODOT standards ~~within six months of approval.~~
3. The applicant shall design and construct improvements that relocate the existing northernmost driveway to Highway 213 in accordance with ODOT standards to achieve adequate intersection sight distance ~~within one year of approval.~~
- ~~3.4.~~
- ~~4. With each future proposed phase of development, the applicant shall submit a traffic analysis to address the need for a southbound left turn lane at the intersection of Highway 213 and the site access. As recommended by ODOT and as warranted, t~~The applicant shall design and construct a southbound left turn lane at the intersection of Highway 213 and the site access according to ODOT standards. ~~, within one year of approval.~~
5. ~~With each future proposed phase of development, the applicant shall submit a traffic analysis to address the need to widen their site access at Highway 213 to two outbound travel lanes. As warranted, t~~The applicant shall design and construct a second outbound site access travel lane according to ODOT and County standards.
6. ~~With each future proposed phase of development, the applicant shall submit a traffic analysis to address the need for improvements at the Highway 213/Henrici Road intersection. If a proposed phase generates any new traffic during the weekday PM peak hour, the~~The applicant shall design and construct a two way left turn lane ~~or acceleration lane~~ on Highway 213 south of Henrici Road in accordance with ODOT standards. ~~If a proposed phase does not generate new traffic during the weekday PM peak hour, the applicant shall not be required construct improvements to the Highway 213/Henrici Road intersection with that particular phase.~~
- ~~6.7.~~ The map amendment and zone change will become effective upon completion of all required roadway and driveway improvements, or upon bonding of required roadway improvements and completion of driveway improvements. This approval shall become void if the required roadway and driveway improvements set forth in Conditions 2-6 are not completed within one (1) year from the date this decision becomes final.