



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 23, 2020

Department: Public Works Agenda Planning Date: Sept. 17, 2020 Time required: None

Audio/Visual aids

Contact: Joe Fennimore Phone: 503-566-4177

Department Head Signature: Brian Niehl

TITLE Schedule final consideration to adopt an administrative ordinance granting Zone Change/ Comprehensive Plan (ZC/CP) Case 20-002/Allied Rock LLC and the Estate of Lois M. Stuart.

Issue, Description & Background The Marion County Hearings officer held a duly noticed public hearing on this application on June 11, 2020 and on July 14, 2020, issued a recommendation to approve ZC/CP 20-002. The board of commissioners held a duly noticed public hearing on August 12, 2020 and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the matter needs to be scheduled for final consideration and adoption.

Financial Impacts: None.

Impacts to Department & External Agencies None.

Options for Consideration: 1. Schedule adoption of the ordinance at the next board session, September 30, 2020. 2. Direct staff to prepare a modified ordinance. 3. Choose not to proceed with adopting an ordinance at this time.

Recommendation: Staff recommends the board schedule final consideration and adoption of the attached ordinance at the next regular board session on September 30, 2020.

List of attachments: Ordinance

Presenter: Joe Fennimore

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Joe Fennimore - gfennimore@co.marion.or.us

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON**

In the Matter of the)	Case No. ZC/CP20-002
Application of:)	
Allied Rock L.L.C. and the)	Clerk's File No. 5807
Estate of Lois M. Stuart)	

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Allied Rock L.L.C., tenant of the Estate of Lois M. Stuart, to change the zone from EFU (Exclusive Farm Use) to TC (Timber Conservation) and change the Comprehensive Plan Designation from Primary Agriculture to Forest Land on a 187 acre property located in the 18800 block of Old Mehama Rd, Stayton (T9S; R1E; Section 15; tax lot 100).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on this application on June 11, 2020 and left the record open until June 18, 2020 for participants to submit additional written testimony, argument, and evidence and until June 25, 2020 for Applicant's final rebuttal. On July 14, 2020, the Hearings Officer issued a report recommending the Board approve the request, subject to a condition. The Board held duly noticed public hearings on the application on August 12, 2020 and considered the Planning Division file, the Hearings Officer's recommendation, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Facts and Conclusions of Law contained in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested Comprehensive Plan designation change from Primary Agriculture to Forest Land is hereby **GRANTED**. The requested zone change from EFU (Exclusive Farm Use) to TC (Timber Conservation) is hereby **GRANTED**, subject to conditions identified in Exhibit B, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is described in Exhibit C, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Zone Code 17.110.660 to reflect the new zoning.

SECTION V. Effective Date

Pursuant to Chapter 1.10 of the Marion County Code, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this _____ day of _____ ,
2020, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

EXHIBIT A

Findings of Fact and Conclusions of Law

The Marion County Board of Commissioners, after careful consideration of all testimony and evidence in the record, make the following findings of fact and conclusions of law in Case No. ZC/CP 20-002:

1. The subject property is a 187-acre parcel located approximately at 19124 Old Mehama Road SE, Stayton, Oregon 97383, Marion County (TS9, R1E, S15, tax lot 100) (the "**Subject Property**"). The Subject Property was legally created by Marion County Partition Plat No. 2019-057. The designation is Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and it is zoned for Exclusive Farm Use (EFU). The Subject Property has not been specially assessed by the Marion County Tax Assessor's Office for agriculture or forest use. The Subject Property is owned by the Estate of Lois M. Stuart and leased to Allied Rock LLC. Both have submitted this application (together "**Applicant**").
2. The Subject Property is in use as a quarry and it is improved by one general purpose building.
3. Surrounding properties in every direction are zoned EFU. To the north and east, properties are used as large forest and farmland. To the south and west, properties consist of small to medium farm parcels in residential use.
4. The Applicant is requesting to amend the Marion County Comprehensive Plan (MCCP) designation from Primary Agriculture to Forest Land and change the zone from EFU to Timber Conservation (TC). No development is proposed concurrent with this zone change.
5. The Marion County Planning Division requested comments on the subject application from various governmental agencies and area advisory committee members.

- A. **Marion County Public Works Land Development and Engineering Permits (LDEP)** requested the following condition be included:

ENGINEERING CONDITION

1. Condition A – Similar to haul route related Conditions in #CU96-81 that modified #CP93-4 for aggregate extraction on the subject property, no heavy truck traffic entering or leaving the subject property shall utilize Kingdom Lane between SR 22 and Old Mehama Road. Applicant shall endeavor to ensure that heavy truck traffic, including third party haulers, continue to be directed with sufficient advance notice, as necessary, to the east/west connections of Old Mehama Road at SR 22.

- B. **Oregon Department of Transportation (ODOT)** commented:

1. The site is near both the North Santiam Highway, no. 162 (OR-22) and Kingdom Lane Frontage Road, No. 162BR. Both are subject to state laws administered by ODOT. While the site has frontage on Old Mehama Road (Marion County jurisdiction), ODOT and Marion County have previously set restrictions on heavy vehicle usage on Kingdom Lane. The new use of the property must ensure that heavy vehicles use Old Mehama Road to connect with OR-22 directly (to the east or west) rather than cutting through Kingdom Lane. Otherwise, ODOT has no objections to the zone change proposal.

All other contacted agencies either failed to respond or stated no objection to the proposal.

5. **Application Background.** Applicant currently operates a quarry on the subject property. Applicant seeks to amend the MCCP and change the zone. The current comprehensive plan designation is Primary Agriculture and the proposed amendment is Forest Land. The zone is Exclusive Farm Use and the proposed change is to Timber Conservation (TC). Applicant's intention with this proposal is so the designation of the Subject Property aligns with its historical land use. In 1993, Case No. Comprehensive Plan/Conditional Use 93-4, this Board granted Administrative Ordinance 959 that approved a proposal for a comprehensive plan text and map amendment. This added the aggregate site on the Subject Property to the "Other Sites" inventory of the County and granted conditional use approval for a quarry and rock crusher. In 1997 (CU 96-81), this Board granted an order of approval that modified the conditional of approval concerning access to the Subject Property for gravel permit purposes. Applicant was approved in 2017 for a minor modification of the site area for the gravel mining operation.

MCCP POLICIES AND GOALS

6. The comprehensive plan amendment must be consistent with any applicable MCCP policies and goals. The MCCP plan amendments Policy 2 provides:

The procedures which Marion County will use to consider Comprehensive Plan amendments, in addition to the requirements in State law, are as follows:

Individual Property or Quasi-Judicial Amendments:

Plan changes directly involving five or less properties will be considered a quasi-judicial amendment. Quasi-judicial amendments may be initiated by the subject property owners with an application form supplied by the Marion County Planning Division. The amendment will be reviewed by the zone change procedure established in the Marion County Zoning Ordinance. A Plan amendment application of this type may be processed simultaneously with a zone change request.

The Subject Property is one parcel and as such, the proposal is a quasi-judicial amendment request that is reviewed under applicable MCC title 17 procedures.

The MCCP does not contain specific review criteria for plan amendments; however, any amendment must be consistent with MCCP applicable goals and policies. The policies relevant to this application are addressed below.

7. *Forest Land and Farm/Timber Land Policy #1:* Protect the resource values of those areas designated as forest lands by applying a Timber Conservation zone consistent with OAR 660 Division 6.

Applicant is seeking a Forest Land designation and Timber Conservation (TC) zoning. The Subject Property includes woodland and contains 66.6% non-High Value soils. The TC zoning recognizes this current forest use. Under the re-designation of Forest Land, OAR Division 6 will apply to the Subject Property. This application is consistent with Forest Land and Farm/Timber Land Policy 1.

8. *Forest Land and Farm/Timber Land Policy #2:* Protect the forest resource value of those areas designated as farm/timber lands by applying a Farm/Timber zone consistent with OAR 660 Division 6.

The Board finds this policy is not applicable because the proposed zone change is not for the Farm/Timber zone.

9. *Forest Land and Farm/Timber Land Policy #3:* Protect the agricultural resource value of those areas designated as farm/timber lands by applying a Farm/Timber zone consistent with OAR 660 Division 33.

The Board finds this policy is not applicable because the proposed zone change is not for the Farm/Timber zone.

10. *Forest Land and Farm/Timber Land Policy #4:* Non-forest and non-farm uses included in OAR 660-06-0025 and 660-33-120 may be allowed when the activity meets criteria that ensure there will be no significant adverse impacts on farm or forest practices occurring on nearby lands or increased risks associated with fire.

Applicant is not requesting any changes to the current conditional use permit. Non-farm and non-forest uses require review by the county and must comply with state law and local ordinances. This application is consistent with Forest Land and Farm/Timber Land Policy 4.

11. *Forest Land and Farm/Timber Land Policy #5:* Subdivision development is prohibited and other land divisions creating new dwelling sites are not compatible with the protection and efficient management of forest lands and farm/timber lands and are discouraged.

Applicant is not requesting subdivision and it is not permitted under Applicant's proposed designation and zone. This application is consistent with Forest Land and Farm/Timber Land Policy 5.

12. *Forest Land and Farm/Timber Land Policy #6:* Division of forest lands and agricultural lands into parcels smaller than 80 acres may be permitted only for those non-forest uses specified in OAR 660-06-0026(2) and those non-farm uses specified in OAR 660-33-0120.

The Subject Property is 187 acres and as such, it is above the minimum 80-acre standard. Further, Applicant is not proposing any land divisions in their request. This application is consistent with Forest Land and Farm/Timber Land Policy 6.

13. *Forest Land and Farm/Timber Land Policy #7:* Lot line adjustments may be appropriate provided tracts over 80 acres are not reduced below 80 acres. Tracts capable of significant timber or agricultural production but already below 80 acres should not be reconfigured in a manner that makes them less suitable for timber or farm management.

Applicant's proposal does not include any property line adjustments. If in the future, such an adjustment is requested, it will then be evaluated for compliance with the MCCP policies and MCC criteria applicable to the request. This application is consistent with Forest Land and Farm/Timber Land Policy 7.

14. *Forest Land and Farm/Timber Land Policy #8:* Strict criteria should be applied to ensure that any dwellings and accessory structures permitted on existing parcels will not interfere with accepted forest or farm management practices on adjacent lands, have adequate road access, fire protection and domestic water supply, and do not increase fire hazards.

Applicant is not requesting a dwelling. If Applicant does so in the future, the dwelling proposal is then subject to review for compliance with MCC criteria applicable to the future request. This application is consistent with Forest Land and Farm/Timber Land Policy 8.

15. *Forest Land and Farm/Timber Land Policy #9:* If special siting and fire hazard protection requirements are imposed, dwellings may be appropriate on existing parcels with low cubic foot per acre per year productivity, on parcels with timber management limitations due to the proximity of dwellings and a highly parcelized ownership pattern, or on existing parcels of 160 acres or more created prior to January 1, 1994. Dwellings allowed under OAR 660-06-0027(1)(a), (e) and (f), as limited in the TC zone, are consistent with this policy.

Applicant's proposal does not include any new dwellings. In the future, any proposed dwelling will require approval under applicable requirements contained in OAR Chapter 660 Division 6 and MCC Chapter 17.138. Specifically, MCC 17.138.060 includes specific siting and fire hazard protection requirements in the TC zone. Any future dwelling on the Subject Property must be approved consistent with state laws and local ordinances. This application is consistent with Forest Land and Farm/Timber Land Policy 9.

16. *Forest Land and Farm/Timber Land Policy #10:* The siting of dwellings in the Farm/Timber zone must meet the applicable criteria in either OAR 660, Division 6 or 33 based on the predominant use of the tract on January 1, 1993.

The Board finds Policy 10 not applicable because Applicant is not seeking a Farm/Timber zone designation.

STATEWIDE PLANNING GOALS

17. The MCCP plan amendments section states comprehensive plan amendments must be consistent with statewide planning goals.

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

The notice and hearings process before the Hearings Officer and the Board provided opportunity for citizen involvement.

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

Applicant's proposal is for a site-specific comprehensive plan amendment. The Planning Division notified local departments and state agencies in order to gather their comments. Thus, the Board finds Goal 2 is satisfied.

Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.

OAR Chapter 600 Division 33 governs agricultural lands. OAR 660-033-0145(1) specifically provides "Agriculture/forest zones may be allowed as provided for under OAR 660-006-0050." Applicant's proposal to designate the Subject Property is considered under OAR Chapter 660 Division 6 governing forest lands.

OAR 660-006-0015(2) provides that for property able to be defined under the requirements of both agricultural and forest land, no exception to Goal 3 is required. The Subject Property is approximately 67.5 percent non-high value farm soils and approximately 92.5 percent soils with Class 3 rated woodland capable soils according to the USDA Soil Survey. Thus, the Board finds Goal 3 is satisfied.

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

OAR Chapter 660, Division 6 applies to the forest lands goal. OAR 660-006-0015(1) provides:

Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest

lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied.

The Subject Property is not currently designated as forest land and no exception to Goal 4 applies to the Applicant's proposal. The Subject Property is not specially assessed for farm or forest use.

Over 320,000 acres are designated Forest Land in Marion County, mostly occupying the eastern area of the county as indicated by the MCCP. Applicant's proposal is to designate land outside this eastern area of the County as Timber Conservation and forest lands. The Board in prior cases has decided land outside identified areas qualified for another designation if the land has sufficient characteristics of the zone. The Forest Land area in the eastern half of the County has four zones based on ecology, climate, and land ownership. One such zone is the Willamette Valley zone that is defined as lying below 1,000 feet in elevation, in blocks of less than 500 acres combined with agricultural land, containing deciduous and coniferous stands. The Subject Property generally fits within this definition as it is less than 500 acres, has a mix of deciduous and coniferous stands as shown in a 2019 aerial image. The elevation of the subject property ranges from approximately 600 feet to 1,380 feet exceeding the usual elevation in the Willamette Valley zone.

The USDA Natural Resources Conservation Service identified 92.5 percent of the soils on the subject property as suitable for forest production with a Class 3 wood production capability. The MCCP Forest Lands Policy indicates forest site class is based on potential yields as measured by cubic feet per acre of mean annual growth of commercial desirable trees. The range for site classes is 1 to 7, the highest growth occurring on Class 1 land. The MCCP Forest Lands Policy Table No. 14 indicates site class 3 soils in Marion County produce 120-164 cf/ac per year for Douglas Fir (the most abundant of the harvested trees in Marion County). The Marion County Soil Survey indicates Nekia soils have a 140 cf/ac per year index for Douglas Fir.

The Marion County Timber Productivity Map shows potential for timber growth on its forest lands. This map indicates the most productive forest land is in lower elevation outside National Forests and the Subject Property is similarly situated to such land. The Subject Property historically has been passively used for timber and currently in use as a quarry. The Timber Conservation designation is better suited to the Subject Property than a Farm/Timber designation because the property's steep slopes that make farming difficult. The Subject Property shares sufficient characteristics for the Forest Land designation and Timber Conservation zone.

The Board finds OAR 660-006-0015 and Goal 4 are satisfied.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. To protect natural resources and conserve scenic and historic areas and open spaces.

Goal 5 protects those resources identified in the MCCP. The only such resource on or near the Subject Property that has been identified is part of the Stout Mountain Rattlesnake Dens. These Dens are “located two miles west of Mehama and one mile north of highway 22. The dens are considered by the Nature Conservancy to be among the best rattlesnake dens in the Willamette Valley.” MCCP, Natural Areas. The impacts of existing aggregate use on the dens were discussed in 1993 in the CUP where the County reviewed comments from Oregon Department of Fish and Wildlife, finding no significant impact on wildlife. Applicant’s proposal does not include changes to the aggregate site.

The Subject Property is adjacent to a Sensitive Groundwater Overlay zone, but it is not within this zone. The Subject Property will remain in natural resource designation prohibiting urban use. The Board finds Goal 5 is satisfied.

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

The Applicant is not proposing development of the Subject Property and as such no direct impacts to the quality of air, water, and land resources of the state will result due to this proposal. The zone change to TC encourages forest uses and management which will indirectly impact carbon sequestration and improvements to water quality. If development of a future dwelling does occur, the MCC development standards related to septic system requirements must be met by Applicant. The Board finds Goal 6 is satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

The Subject Property is not located in an identified floodplain. Certain areas of the Subject Property include MCCP-identified excessive slope areas. Applicant is not proposing any development concurrent with this zone change. Any future development resulting from approval of Applicant’s proposal will require Applicant to conform to applicable restrictions. The Board finds Goal 7 is satisfied.

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

The Board finds Goal 8 inapplicable to the Subject Property.

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

The Board finds Goal 9 inapplicable to the Subject Property.

Goal 10: Housing. To provide for the housing needs of citizens of this state.

The Board finds Goal 10 inapplicable to the Subject Property.

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

Currently, electric and telephone utilities are available near the Subject Property. Additional water and sewer services are not required at the Subject Property due to Applicant's proposal. Additional public facilities are not needed because Applicant is not proposing new development. The Board finds Goal 11 is satisfied.

Goal 12: Transportation. To provide and encourage a safe, convenient and economic transportation system.

OAR 660-012-0060 implements Goal 12. This rule provides:

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that is inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan;
or

(C) 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.

Traffic from the existing quarry will be unchanged by Applicant's proposal because no development is proposed by Applicant. ODOT and Marion County Public Works LDEP commented to repeat the conditions imposed in Marion County Planning File CU96-81 that heavy truck traffic from the Subject Property is prohibited from using Kingdom Lane between OR-22 and Old Mehama Road. Applicant is not proposing to change the functional classification of the roads or standards implementing them. The existing transportation system is sufficient to meet Applicant's proposal. The Board finds Goal 12 is satisfied.

Goal 13: Energy Conservation. To conserve energy.

Applicant's proposal will not increase energy consumption. The Board finds Goal 13 is satisfied.

Goal 14: Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The Board finds Goal 14 inapplicable to the Subject Property because Applicant's proposal to designate the Subject Property as forest land and the zone as TC will not result in urbanization.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The Board finds Goals 15-19 inapplicable to the Subject Property.

ZONE CHANGE

18. The proposal is to change the zoning from EFU to TC.

19. The following are the required criteria under MCC 17.123.060 for a zone change as well as the Board's findings demonstrating satisfaction of each criterion:

A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and*

Applicant seeks to change the comprehensive plan designation to Forest Lands and the zone to Timber Conservation (TC). In Marion County, Forest Land designations have applied to land under forest management or other natural resource use. Here, the Subject Property is mostly comprised of non-high value farm soils as indicated by the USDA Soil Survey. This has led to

the Subject Property being used historically as forestland. The 1994 aerial photograph of the Subject Property depicts such forest use. The Forest Land and Farm/Timber Land policies in the MCCP were evaluated by the Board. The Board finds these policies are satisfied. Upon approval of the TC zone change, the Forest Lands designation is consistent with the zone.

Thus, the Board finds the Applicant has satisfied this criterion.

B. The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and

The Subject Property is surrounded by property zoned EFU with mixed use of farm, forest, and residential. The aerial photographs show the Subject Property has been in forest use since 1976 and has not conflicted with neighboring farm or residential uses. Due to the resource uses on all sides of the Subject Property, the proposed TC zone is appropriate in consideration of the area uses.

Thus, the Board finds Applicant has satisfied this criterion.

C. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and

Utilities and services such as electric and telephone are available in the area. The Subject Property has an approved approach to access Old Mehama Road. Water and sewer services are not required. The existing public facilities are adequate to accommodate the resources uses. The Board finds Applicant has satisfied this criterion.

D. The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and

The Board has previously considered this criterion in four other cases. In 2003, the Board found the application focus was site-specific, long-term resource management, and other FT zoned lands did not address saving the specific site for timber production. The Board then applied an FT zone. In 2011, 2015, and 2017, the Board reconfirmed their interpretation with a site-specific approach to find this criterion satisfied. The Subject Property is uniquely positioned for use as a timber tract because it historically has been forestland. This property is best suited for the resource uses allowed under the requested designation and zone change.

The Board in following its previous approach in Applicant's case finds this criterion satisfied.

E. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.

The TC zone is the only zone allowed under the Forest Lands designations and as such, the Board finds this criterion inapplicable.

EXHIBIT B

The Marion County Board of Commissioners adopts the following condition in ZC/CP 20-002:

1. No heavy truck traffic entering or leaving the subject property shall utilize Kingdom Lane SE between OR-22 and Old Mehama Road. Applicant shall ensure that heavy truck traffic, including third party haulers, continue to be directed with sufficient advance notice, as necessary, to the east/west connections of Old Mehama Road at OR-22.

EXHIBIT C

The following described property is rezoned from EFU (EXCLUSIVE FARM USE) to TC (TIMBER CONSERVATION). ZC/CP20-002/Allied Rock LLC and the Estate of Lois M. Stuart.

