

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of a Comprehensive Plan)	
Amendment from Very Low Density)	
Residential to Industrial and a Zone Change)	Ordinance 918
From VLDR-2.5, Very Low Density)	Board Order 22____
Residential to LI, Light Industrial, and)	
Imposition of a Limited Use Overlay;)	
Planning Docket PAZ-04-21; Tax Lot)	
4411-01300 & 4411-0101; Applicant:)	
Town Investments; and Declaring an)	
Emergency)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on April 28, 2022, Commissioners Lindsay Berschauer, Mary Starrett, and Casey Kulla being present.

IT APPEARING TO THE BOARD as follows:

WHEREAS, Town Investments, LLC requested a plan amendment (from Very Low Density Residential to Industrial) and zone change (from Very Low Density Residential-2.5 to Light Industrial) for 13-acres over two parcels, with Tax Lot 4411-01300 measuring approximately 3-acres and Tax Lot 4411-01301 measuring approximately 10-acres, located at the junction of Highway 99W and NE Lone Oak Road North; and

WHEREAS, This matter came before the Planning Commission for public hearing on December 2, 2021, and the Planning Commission voted 6-0 to recommend approval of the application by the Board of Commissioners, subject to a Land Use Overlay condition limiting use of the tract an agricultural business; and

WHEREAS, The Board held a public hearing on the application on March 3, 2022, and after leaving the record open for a period fo 21 days, reconvened on March 31 to deliberate on the matter. Following deliberation, the Board voted 2-1 to approve the application subject to the Land Use Overlay; NOW, THEREFORE

THE BOARD ORDAINS AS FOLLOWS:

Section 1. The findings attached as Exhibit “A” and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 2. The Comprehensive Plan Map and Zoning Map of Yamhill County are hereby amended to reflect a Plan Map designation of “Industrial” and a Zoning Map designation of “LI-Light Industrial” for the approximately 10-acre Tax 4411-01300 and the approximately 3-

acre Tax Lot 4411-1301, as identified on the attached Exhibit "B" map, incorporated herein by reference.

Section 3. A Limited Use Overlay District (YCZO section 904) is hereby applied to the subject property, limiting allowed use of the tract to agricultural business, which may include a supply store, a retail store, office space, and/or a storage warehouse.

Section 4. This Ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective immediately.

DONE this 28th day of April, 2022, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN
County Clerk

Chair LINDSAY BERSCHAUER

By: _____
Deputy Carolina Rook

Commissioner CASEY KULLA

FORM APPROVED BY:

Commissioner MARY STARRETT

Jodi Gollehon
Office of County Counsel

EXHIBIT A
FINDINGS IN SUPPORT OF APPROVAL
ORDINANCE 918
(Board Order _____)

DOCKET NO.: PAZ-04-21

REQUEST: Approval of a Comprehensive Plan amendment from Very Low Density Residential to Industrial and a zone change from VLDR-2.5, Very Low Density Residential to LI, Light Industrial.

APPLICANT: AKS Engineering & Forestry, LLC

OWNER: Town Investments, LLC

TAX LOT: 4411-01300 & 4411-01301

LOCATION: Northwest of the junction of Highway 99W and NE Lone Oak Road North; also, west and south of the parcel with a situs address of 3225 Lone Oak Road North.

CRITERIA: Sections 502, 702, and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

REFERRALS: *Public Works* – No comments received to date.
McMinnville Rural Fire District – “There are no Fire Hydrants in this area. Before construction of a light hazard industrial complex begins, the developer should provide plans for the improvement of the water infrastructure at the site.”
ODOT – No comments received to date.
Water Master – No comments received to date.
City of McMinnville – No comments received to date.
Sanitarian – “Future development must meet the sanitation requirements.”
Additional comments from the public available upon request.

FINDINGS:

A. Background Facts:

The Board adopts by reference the Background Facts, specifically Findings 1 through 8 set forth in the Staff Report, dated November 25, 2021.

B. Procedural Findings:

1. On September 10, 2021, Applicant filed an application for a plan amendment and zone change. Staff deemed the application complete and scheduled it for hearing before the Planning Commission. The Planning Commission held a hearing on the application on December 2, 2021.
2. The Planning Commission held a public evidentiary hearing on December 2, 2021. At the hearing, the Planning Commission considered the report from staff, and Applicant's presentation and testimony. The Staff Report contained discussion of whether a Limited Use (LU) overlay was appropriate to support findings of approval under YCZO 1208.02. Applicant presented supplemental evidence and argument for why a LU overlay was not necessary for the Planning Commission to recommend approval under YCZO 1208.02. After receiving public testimony, including opposition from neighbors like Evergreen Memorial Cemetery, the Planning Commission asked for staff's input on the LU overlay. After hearing the public testimony and staff's input, the Planning Commission deliberated and, following deliberations, concluded that the evidence in the record supported approval of the application and unanimously approved recommending to the Board of County Commissioners, and that the applications should be approved subject to a LU overlay condition limiting the use of the tract to an "agricultural business which includes a supply store, a retail store, office space, and storage warehouse."
3. Following the Planning Commission hearing, on February 18, 2022, staff issued notice for a public hearing in front of the Board of County Commissioners for March 3, 2022.
4. The Board of County Commissioners held a public hearing on March 3, 2022. At the hearing, the Board acknowledged the comments and submittals received to date and accepted testimony and argument from Applicant and the public, including Evergreen Memorial Cemetery. Following the testimony, the Board closed the public hearing and left the record open a period of 21 days with new evidence accepted through 5 pm on March 20, 2022, rebuttal evidence accepted through 5 pm on March 17, 2022, and Applicant's final legal argument accepted through 5 pm on March 24, 2021.
5. On March 31, the Board reconvened to consider the submittals since the March 3, 2022 hearing and deliberate on the matter. The Board recognized the additional evidence Applicant submitted, discussing the extent of the needs analysis and the evidence already in the record to support findings under YCZO 1208.02 without the LU overlay condition. Notwithstanding the additional evidence, the Board deliberated and decided to approve the application subject to the LU condition language, as recommended by the Planning Commission. The Board directed staff and county counsel to prepare findings of fact and conclusions to document the decision, and on Thursday, April 28, the Board adopted the presented findings of fact and conclusions of law.

C. Substantive Findings:

The applicable approval criteria and review standards are set forth in YCZO 502, 702, and 1208.02 of the YCZO. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule applies.

1. YCZO 1208.02, Plan Amendment and Zone Change

(A) The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.

Regarding criterion (A) above, the Board adopts by reference the findings presented in Section (B)(3) of the Staff Report. These findings are based on Applicant's application narrative, specifically findings on pages 3-6 and 13-15, which the Board also incorporates by reference to support its findings under YCZO 1208.02(A). The Board notes that some public comments touched tangentially on the application's consistency with the County's Comprehensive Plan policies, such goals and policies are aspirational and not approval criteria. The Board finds that when considering the applicable goals and policies, and the evidence in the record, on balance, the application is consistent with the Comprehensive Plan as required by YCZO 1208.02(A).

(B) There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.

Regarding the need for the proposed use, criterion (B), Applicant submitted a report and supplemental report from Johnson Economics, LLC assessing the demand and supply of light industrial land in Yamhill County. To support findings of compliance with YCZO 1208.02(B), the Board adopts by reference the entirety of Applicant's analysis in Section E(2) of its Final Legal Argument, dated March 24, 2022, as follows:

“This criterion [YCZO 1208.02(B)] requires the Board to consider ‘demonstrable need’ for LI uses considering three factors set forth in YCZO 1208.02(B). The three factors help frame the Board’s analysis of ‘demonstrable need.’”

The first factor for “demonstrable need” is the importance of the particular uses (allowed in the zone) to the citizens or economy of the County. As summarized in Supplemental Economic Needs Memo (Attachment 3), the three rural industrial uses that were considered in Applicant's demonstrable needs analysis were the following YCZO 702.02, Permitted Uses:

A. Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors;

B. Farm, industrial or contractor's equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage;

C. Warehousing, wholesale storage and distribution, and motor freight terminals contained only within a building;

There is a known importance of the agricultural economy to the citizens of Yamhill County, including vineyard and the wine industry. The LI uses described above are all rural industrial uses that directly serve or support that agricultural economy. *See Attachment 2* (Economic Needs Analysis), Figure 5 Past and Projected Employment Growth at pages 6-7.

The second factor for “demonstrable need” is existing market demand. The Economic Needs Analysis found a trend of growth and projected additional growth in the coming decade, thus demonstrating the existing market demand for uses that serve or support the agricultural economy. See Attachment 2 (Economic Needs Analysis) at pages 6-8.

The third factor for “demonstrable need” is availability and location of other LI lands. The Economic Needs Analysis and the Supplemental Economic Needs Memo evaluated the availability and location of other LI zoned land within the County. Figure 7 of the Economic Needs Analysis identifies the vacant LI land in the County, consisting of 4 sites (9 tax lots) totaling 25.6 acres. The analysis revealed that the remaining vacant LI sites

“Have significant challenges in accommodating the county’s projected growth in rural industrial uses. Three of the four identified sites (Sites 1,3,4) have great challenges based on location and/or odd parcel size/shape to be directly comparable to the location and layout of the subject site. The remaining site, Site 2, was raised at the hearing as a potential substitute for the subject site. Site 2 is 4.5 acres, located on a highway, in an existing industrial cluster, and had decent visibility and access for business operations. * * * Site 2 is currently under an active use for RV storage. Recently it has been paved for this purpose and shows evidence of full usage and should no longer be considered vacant.”

Attachment 3 (Supplemental Economic Needs Memo) at page 1.

Applicant hopes that this parsing of the criterion helps respond to the Board’s questions concerning need and what must be considered when making findings under YCZO 1208.02(B). The criterion does not require that no LI land be available in order to find “demonstrable need.” Moreover, the availability of other LI sites is only one of three factors that must be analyzed when determining “demonstrable need” under YCZO 1208.02(B). The Economic Needs Analysis and Supplemental Economic Needs Memo, together, address all three factors for determining “demonstrable need” and are the “market analysis” the County can rely on when making findings under YCZO 1208.02(B). See *DLCD v. Yamhill County*, 42 OR LUBA 126 (2002). Based on the evidence in the record, the County may find that Applicant has satisfied YCZO 1208.02(B) and proven a demonstrable need for the LI uses in YCZO 702.02(A)-(C).

Further, the Board adopts the following findings from the Staff Report:

“The applicant conducted an analysis of all available land zoned for light industrial use within the unincorporated areas of the county. This analysis found that most light industrial zoned land is found near the outskirts of incorporated cities or in rural unincorporated communities where light industrial uses were established prior to Oregon’s zoning regulations. The analysis found that many of these light industrial zoned lots are smaller with established uses in place with approximately 25.6-acres of vacant light industrial zoned property available in the county or approximately 15% of the total light industrial land (approximately 171-acres) in the county.”

The applicant has identified four largely vacant light industrial zoned properties in the county and found that these four locations each have distinct challenges when compared to the applicant's tract. The applicant has identified that the undeveloped size of a property would be the most significant factor for developing the envisioned agricultural supply, warehousing, and retail business. Two of the vacant light industrial lots are comparable in size to the applicant's tract. The first light industrial property that is similar in size is located along the southwestern outskirts of Sheridan and measures approximately 12-acres, Tax Lot 5634-00100. This 12-acre lot is split-zoned with approximately 7-acres zoned for Light Industrial use, approximately 4-acres located within city limits, and the remaining acreage zoned for Exclusive Farm use in the EF-80 zone. Although suitably sized for the proposed use, this property has challenges identified by the applicant which include more limited access options for delivery of material and for customers of the business. This property has no access to a highway or major arterial road so delivery vehicles and guests would need to travel through central Sheridan along local roadways. An additional challenge to future development of this property that was not identified by the applicant is that this parcel is also located within a hazard area, the South Yamhill River 100-year floodplain, so any construction occurring on the property would need to go through an additional land use process—the floodplain development permitting process.

The second site identified by the applicant as comparable in size is an approximately 8.5-acre area of land located approximately 0.8-miles south of Dundee, north of SE Fulquartz Landing consisting of five Tax Lots including 3335-04400, 3335-04402, 3335-04407, 3335-04408, and 3335-04410. One of the challenges identified by the applicant for developing these 8.5-acres is that the lots that constitute this undeveloped light industrial land is a patchwork of differing owners. While these lots may be ideal for many uses permitted in the light industrial zone, the access to these lots is limited due to the current interface of Highway 99W and SE Fulquartz Landing which currently only allows 'right in/right out' access to and from Highway 99W and does not allow for left turns onto or from the highway. The applicant also identifies the railroad crossing, just east of the Highway 99W and Fulquartz Landing intersection, as a feature that would likely need to be improved to facilitate the safe use by patrons and delivery vehicles to the applicant's business.

The third undeveloped site identified by the applicant is 4.5-acres in size and is located approximately equidistant from McMinnville and Amity, along Highway 99W. This 4.5-acre tract is comprised of two lots, Tax Lots 5405-01205 and 5405-01206, both measuring approximately 2.5-acres in size. In 2017, the westernmost of the two lots received land use approval for the operation of an RV storage business on the property which means that currently only 2.5-acres are currently unused. The applicant cites the smaller size and distance from McMinnville as factors that make developing this site less viable than the applicant's 13-acre tract.

The final available site identified by the applicant is a 1.5-acre property, Tax Lot 4411-03803, located northeast of McMinnville and just 0.1-mile east of the applicant's property, also on Highway 99W. It appears as though approximately 0.5-acre of the property is currently being used in conjunction with the tractor dealership located on an adjacent lot. This partial use of the property leaves only an acre available for use by another business, and the applicant indicates that a single acre of available land is far too small to accommodate the proposed farm supply business.

The Board's analysis of YCZO 1208.02(B) is limited to lands within the County's jurisdiction. The Board acknowledges that arguments were made to the contrary, but the Board maintains that it is inappropriate to consider land inside city limits because such lands are outside of the County's planning jurisdiction. The Board finds that notwithstanding Applicant's arguments to the contrary, that the Johnson reports were limited in nature and therefore the Board must apply a narrow LU overlay. Applicant argued for an LU overlay limiting uses to those specified in YCZO 702.02(A)-(C) since those were the uses addressed in the Johnson reports. There was disagreement on the Board about the scope of the Johnson reports and the Board opted to disagree with Applicant, finding that a LU overlay limiting the use of the property to "the manufacture, storage, sales, repair, or service of agricultural equipment or materials, or other similar use" was more appropriate. On this basis, the Board finds that the evidence in the record and the findings above, including findings incorporated by reference, the Board finds that YCZO 1208.02(B) is met subject to the LU overlay.

(C) The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.

Under YCZO 1208.02(C), the Board must consider whether the proposed zone change is "appropriate" considering four factors. The Board acknowledges the concerns raised by Evergreen Memorial Cemetery on the record, noting that Evergreen's comments primarily focused on whether uses on the adjacent parcel would be compatible with Evergreen's existing use. Compatibility of a particular use or uses is not the focus of YCZO 1208.02(C). Compatibility is a consideration for site design review under YCZO 1101. Thus, to the extent Evergreen's arguments raise issues under YCZO 1208.02(C), the Board addresses them below but for the most part, the Board finds that the majority of Evergreen's concerns are more appropriately addressed during site design review when the County has before it a specific development proposal. At this stage, Applicant has only presented a representative yet hypothetical development for purposes of the analysis under YCZO 1208.02(C).

The Board agrees with Applicant's analysis of YCZO 1208.02(C) presented in Section E(3) of its Final Legal Argument, dated March 24, 2022. Therefore, the Board adopts in entirety Applicant's findings, as follows:

"The first factor is surrounding land uses. The subject property is located along Highway 99W, an ODOT-classified regional highway/principal arterial. It is located near the intersection of Highway 47, is about 1,500 feet away from the McMinnville city limits, and is located in a corridor with various other commercial and industries businesses. *See Attachment 4* (Applicant Board Presentation) at page 4. Such uses range from industrial operations to car dealerships, auto repair, and commercial businesses. As evidenced from the materials in the record, the Highway 99 corridor supports a range of businesses, industries, services, and employment opportunities. Surrounding zoning includes Neighborhood Commercial ('NC'), LI, Public Assembly/Institution, and VLDR-2.5. The cemetery property itself is zoned Public Assembly/Institutional, not open space or VLDR as Evergreen appears to consider it based on comments on the record regarding expectations of quiet. The area is not quiet as evidenced by Applicant's acoustical study provided into the

record. Applicant's acoustical study was prepared by a registered professional engineer and is a 'stamped' study. Any noise associated with the proposed LI use of the subject property would be similar to that of the surrounding area and other surrounding land uses."

The second factor is the density and pattern of development of the area. It is clear from the aerial photograph of the area, the zoning and parcel size/orientation that the area is already developed commercial and industrial businesses along the Highway 99 corridor. See Attachment 4 at pages 4-5. Rezoning the subject property would complement the existing pattern of development and be consistent with development patterns across and along the highway. See also Attachment 1 (Staff Report) at page 9.

The third factor is any changes that may have occurred in the vicinity to support the proposed amendment. There have been recent changes in the vicinity that support rezoning the subject property to LI – two parcels have been rezoned to LI and one parcel has been rezoned to NC. See Attachment 4 at page 6. This fact also supports findings under the second factor in that the area is continuing to transition towards more commercial and industrial development along a key highway corridor between McMinnville and Lafayette.

The fourth factor is the availability of utilities and services to serve the LI uses anticipated. The area is served by existing electrical, transportation, and communications utilities and services that also serve the nearby commercial and industrial uses. See Attachment 1 (Staff Report) at page 10. Applicant provided a Transportation Impact Study into the record to demonstrate that the transportation system was adequate to support the proposed zone change. Site-specific utilities and services, including access points on Lone Oak Road will be reviewed and considered during the subsequent Site Design Review under YCZO 1101 when a specific developmental proposal is presented to the County for consideration.

Applicant maintains that nothing raised in the record, including comments from Evergreen, provide any justification for denying the zone change under YCZO 1208.02(C). Specific to the cemetery, it is only one use in what is now a commercial/industrial corridor along a state highway. During the Board hearing, Applicant provided evidence demonstrating that it is not uncommon for cemeteries to be surrounded with commercial and/or industrial development over time. See Attachment 4 (Applicant Board Presentation) at page 13-16. Further, factors such as noise, visual impacts, and compatibility are not stand-alone factors that the County considers in applying YCZO 1208.02(C). Those factors will be considered and evaluated at the time of site design review under YCZO 1101. As discussed in Applicant's pre-hearing submittal, any future development on the property will trigger site design review and Applicant will need to address the factors like noise and visual buffering for neighboring properties under YCZO 1101.02(A)(4) and "comments and recommendations of adjacent or vicinity property owners whose interest may be affected by the proposed use" under YCZO 1101.02(A)(7). Applicant has sufficient room on the property to propose buffering and screening at that time and it is then, the County can evaluate whether a noise berm or landscaping is appropriate to address Evergreen's development-specific impacts.

Further, the Board adopts the following findings from the Staff Report:

“The subject property is located near the Bunn’s Village development (zoned for Neighborhood Commercial uses) which itself is surrounded by a variety of uses ranging from light industrial, public assembly (Evergreen Memorial Park and cemetery), rural residential uses, as well as the agricultural activities conducted in the area. The subject tract is located adjacent to a major transportation corridor in Highway 99W, and just east of McMinnville the county’s largest population center. This nexus of development is of a much greater density and intensity than of pretty much any other unincorporated area of the county. The long established commercial and industrial uses in this area appear to be adequately served by electrical, transportation, and communications utilities and services. New services that will need to be established on the property include the use of an on-site well for potable water, the establishment of fire hydrants and/or other fire safety improvements that meet the McMinnville Fire Department standards, while wastewater will be managed by a system approved by either the county sanitarian or by the DEQ depending on the size and type of wastewater management system approved for the future use of the property. Access to the property is via NE Lone Oak Road North, which intersects with Highway 99W along the tract’s southeastern property line. If the plan amendment and zone change request is approved, any future development of the tract itself would be subject to the Site Design Review process. This site design review allows for the county to evaluate the potential impacts more specifically to the properties in the surrounding area prior to approval of a use permitted in the Light Industrial zone. The site design review process provides the county and applicant to evaluate the existing services to verify those in place are sufficient to support the specific development, or if not, to what extent improving existing services or establishing new services would be required.”

The Board looks to the evidence in the record and finds that the application adequately addresses each of the factors required by YCZO 1208.02(C) and therefore is “appropriate.” The Board recognizes that Evergreen raised arguments under the first and second factors of the YCZO 1208.02(C) analysis. The Board has considered the evidence presented and agrees with Applicant that the surrounding land uses and the density and pattern of development reflect a light industrial corridor that has developed up over time around Evergreen’s more historic use, similar to other cemeteries within the surrounding counties and cities, as evidenced in the record. Accordingly, the Board concludes that YCZO 1208.02(C) is met subject to the LU overlay, as described above.

(D) Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.

As discussed above under YCZO 1208.02(B), the Johnson reports inventoried the other tax lots currently zoned LI in the County and found that 4 sites were either vacant or partially vacant. These sites were evaluated based on market area, neighboring uses, access, and visibility as compared to the subject site per Figure 7 of the Johnson report. The analysis shows that other lands zoned LI in the County are not as well-suited for the proposed uses. For these reasons, the Board finds that YCZO 1208.02(D) is met.

(E) The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.

There are no Oregon Administrative Rules for exceptions that apply to this application.

2. **Goal 12 (Transportation Rule) Provisions and Analysis and OAR 660-12-060**

(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 are 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.

Regarding (a) and (b), Applicant submitted a traffic study from Lancaster Mobley that addresses the TPR and concludes the request will not impact, alter or change the functional classification of any existing or planned facility. The County Public Works Department and the Oregon Department of Transportation were sent referrals for comment on the application. No comments have been received to date. For these reasons, the Board finds that this rule is met.

DECISION:

The Board accepts the Planning Commission's recommendations to approve a comprehensive plan amendment from Very Low Density Residential to Industrial and zone change from VLDR-2.5, Very Low Density Residential to LI, Light Industrial. The Board has considered the evidence before it and concludes that substantial evidence supports approving the application. Specifically, Applicant has provided evidence into the record that amounts to evidence upon which a reasonable

person could rely to conclude that the criteria in YCZO 1208.02(A)-(E) have been met. Applicant submitted evidence into the record that includes, but is not necessarily limited to, the following:

- YCZO Narrative from AKS Engineering, dated September 2021;
- Preliminary Plan Set from AKS Engineering, dated August 24, 2021;
- Property Research Report from First American Title, dated July 26, 2021;
- Transportation Impact Study from Lancaster Mobley, dated September 8, 2021;
- Needs Analysis of Supply and Demand for Light Industrial Land in Yamhill County from Johnson Economics, dated August 5, 2021;
- Lone Oak Road Noise Memo from A Acoustics, dated February 23, 2022;
- Additional Comment on the Needs Analysis of Supply and Demand for Light Industrial Land from Johnson Economics, dated March 9, 2022;
- Response to Board Hearing, Lone Oak Road Transportation Impact Study from Lancaster Mobley, dated March 8, 2022;
- PowerPoint Presentation for Planning Commission from AKS Engineering and DWT, dated December 2, 2022; and
- PowerPoint Presentation for Board of Commissioners from AKS Engineering and DWT, dated March 3, 2022 (“Applicant Board Presentation”), included as Attachment 4.

Recognizably, opponents also provided testimony and materials into the record. However, the Board finds nothing convincing in such testimony that would undermine the proposed findings in the Staff Report or evidence Applicant provided. Even if the Board was to view some of the opponents’ evidence as conflicting with Applicant’s evidence, a decision maker is not required to explain his or her reasoning for choosing to rely on particular evidence over other evidence, as long as a reasonable decision maker could reach the same decision based on the evidence as a whole. See *Schwerdt v. City of Corvallis*, 38 Or LUBA 174 (2000). *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994). Further, LUBA will defer to a local government’s choice between conflicting evidence if LUBA can conclude that a reasonable person would have reached the decision the local government made in view of all of the evidence in the record. *Tigard Sand and Gravel v. Clackamas County*, 33 Or LUBA 124 (1997). The same standard applies when a decision maker is selecting between expert testimony (but Applicant does not view any of evidence submitted by opponents as expert testimony). See *Willamette Oaks, LLC v. City of Eugene*, 67 Or LUBA 351 (2013). Accordingly, the Board has the discretion to decide which evidence to rely on and which to reject, as long as a reasonable person could make the same decision. The Board finds that it has met this standard when concluding that YCZO 1208.02(A)-(E) are met subject to the following condition.

CONCLUSIONS FOR APPROVAL:

1. The proposed change is consistent with the Comprehensive Plan goals and policies.
2. There is an existing demonstrable need for the particular uses allowed by the requested zone change.
3. The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment, and the availability of utilities and services likely to be needed by the anticipated uses.
4. Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses.
5. There are no Oregon Administrative Rules for exceptions that apply to this application.

CONDITIONS:

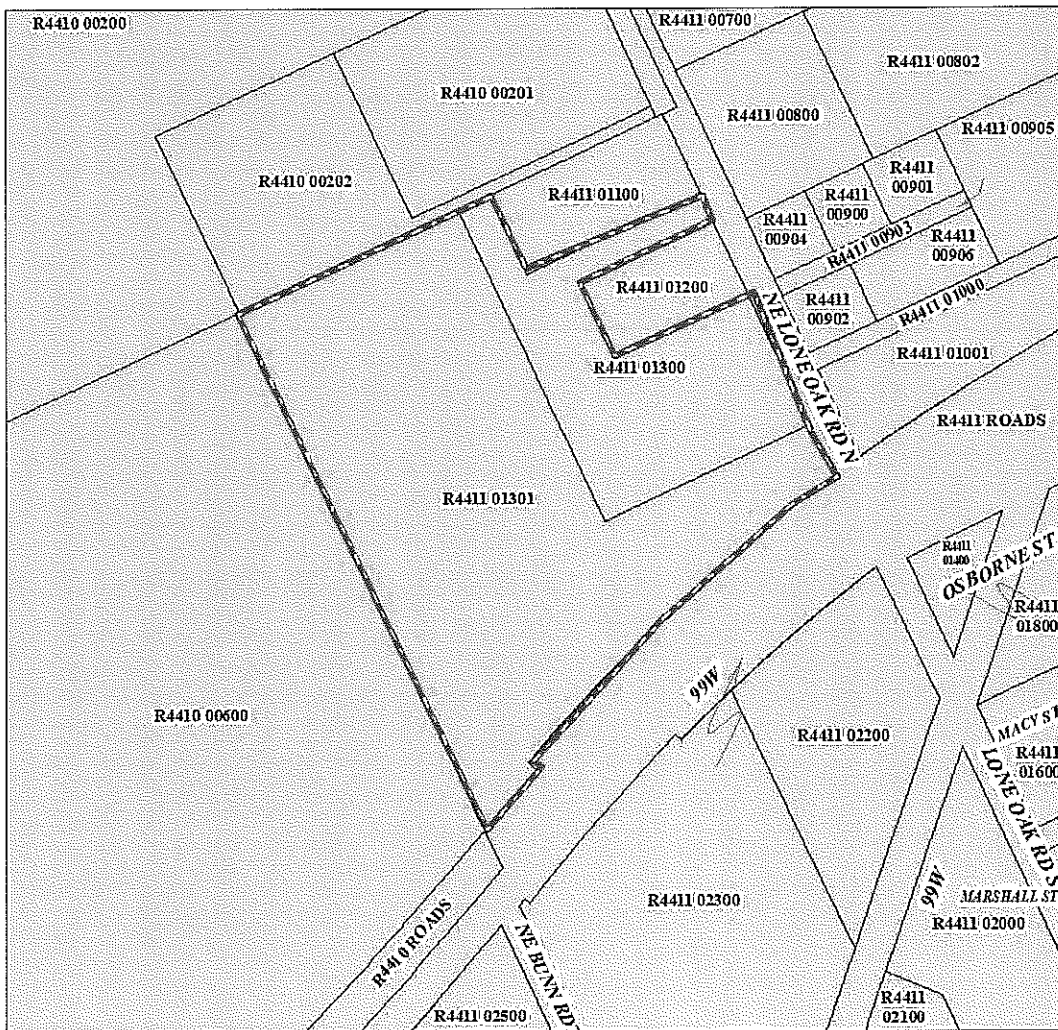
1. A Limited Use Overlay (YCZO Section 904) is hereby imposed on the subject tract, limiting allowed uses of the tract to agricultural business, which may include a supply store, a retail store, office space, and/or a storage warehouse.

ATTACHMENTS:

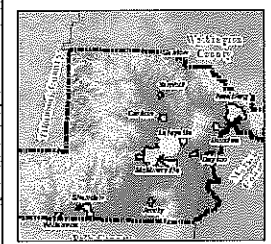
1. Attachment #1: Staff Report
2. Attachment #2: Economic Needs Analysis
3. Attachment #3: Supplemental Economic Needs Memo
4. Attachment #4: Applicant Board Presentation


END



EXHIBIT B - MAP FOR ORDINANCE 918
 ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS
 APRIL 28, 2022
 FOR A PLAN AMENDMENT FROM
VERY LOW DENSITY RESIDENTIAL
 TO
INDUSTRIAL
 AND
 ZONE CHANGE FROM
VLDR-2.5, VERY LOW DENSITY RESIDENTIAL
 TO
LI, LIGHT INDUSTRIAL



YAMHILL COUNTY
TAX LOT INFORMATION
 &
CONTEXTUAL MAP



Property Information
 Docket: PAZ-04-21
 NE Lone Oak Road
 Subject Tract
 Tax Lot: R4411 01301
 Lot Acreage: 10
 Tax Lot: R4411 01300
 Lot Acreage: 3.0

Approximate Locations & Dimensions
 1 inch = 200 feet



Last Update: April 20, 2022

CHANGE APPLIES TO TAX LOTS 4411-01300 & 4411-01301 AS HIGHLIGHTED ABOVE.
 APPROXIMATE SCALE - 1 INCH = 200 FEET

YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
STAFF REPORT

HEARING DATES: December 2, 2021 – Planning Commission Hearing
TBD – Board of Commissioners

DATE: November 25, 2021

DOCKET NO.: PAZ-04-21

REQUEST: Approval of a Comprehensive Plan amendment from Very Low Density Residential to Industrial and a zone change from VLDR-2.5, Very Low Density Residential to LI, Light Industrial.

APPLICANT: AKS Engineering & Forestry, LLC

OWNER: Town Investments, LLC

TAX LOT: 4411-01300 & 4411-01301

LOCATION: Northwest of the junction of Highway 99W and NE Lone Oak Road North; also, west and south of the parcel with a situs address of 3225 Lone Oak Road North.

CRITERIA: Sections 502, 702, and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

REFERRALS: *Public Works* – No comments received to date.
McMinnville Rural Fire District – “There are no Fire Hydrants in this area. Before construction of a light hazard industrial complex begins, the developer should provide plans for the improvement of the water infrastructure at the site.”
ODOT – No comments received to date.
Water Master – No comments received to date.
City of McMinnville – No comments received to date.
Sanitarian – “Future development must meet the sanitation requirements.”
Dave Mays, 3333 Lone Oak Road North, McMinnville, email submitted on November 12, 2021 – “My wife and I are the owners of Tax Lot 202. We purchased our property assuming the rural residential feel of our property would be unchanged. This has been an enjoyable place to live. We request that a “buffer zone” be included in the zone change where the subject property is adjacent to residential properties to provide some separation from the new LI zone. We request that this buffer be created as a 100ft setback that only allows uses allowed within the VLDR zone and prevents future light industrial operations from being up against existing residential properties. We would request that all parking, loading and unloading be maintained on site and these activities not be allowed off-site. We support this zone change with the establishment of the noted

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requests and believe a farm supply store, as proposed, would be a good use of this property. We appreciate your consideration of our request.”

- EXHIBITS:**
- I. Application
 - II. Light Industrial Zoning Ordinance
 - III. Public Notice
 - IV. Public Agency Reports
 - V. Comments Received

FINDINGS:

A. Background Facts

1. *Tract size:* A total of 13-acres. Tax Lot 4411-01300 measures approximately 3-acres and Tax Lot 4411-01301 measures approximately 10-acres.
2. *Access:* There is an existing driveway that currently provides ingress/egress from/to NE Lone Oak Road North. This existing access is located approximately 150-feet north of the junction of Lone Oak Road North and Highway 99W. The application indicates that the long-term plan for the development of the property would include the construction of a second driveway further to the north of the existing driveway. This new driveway would be approximately 580-feet north of the Lone Oak Road and Highway 99W intersection.
3. *On-site Land Use:* Aside from a roughed-in driveway the parcel is undeveloped. There are a few scattered trees on the property, however the majority of the lot consists of grasses and shrubbery.
4. *Surrounding Zoning and Land Use:* The surrounding area is a nexus of various zoning designations and land use patterns. Neighboring parcels to the north and east are zoned for Very Low Density Residential (VLDR-2.5) use. These VLDR-zoned lots are all dedicated to rural residential use, with single-family dwellings and accessory buildings (e.g., garages, shops, etc.) commonly found on these properties. One of these VLDR-zoned parcels, Tax Lot 4411-00905, received approval for the operation of a mini-storage facility as a home occupation. The VLDR-zoned land in the surrounding area range in size from 0.25-acre to 14-acres in size, with the majority of the VLDR-2.5 zoned land north of Highway 99W being below the minimum lot size of 2.5-acres. There are several VLDR-2.5 zoned lots located south of Highway 99W that could be further developed, including the aforementioned 14-acre lot, as well as two 10-acre parcels, and two lots that are around 5-acres in size.

There are two Light Industrial (LI) parcels east of the applicant’s tract, Tax Lots 4411-01000 (1.9-acres) and 4411-01001 (2.2-acres). These parcels do not currently have land use approval for any light industrial uses, and any future light industrial use on these properties would require land use approval prior to issuance of building permits or commencement of a permitted or conditional use.

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The tract to the west and north of the subject property hosts Evergreen Memorial Park, is composed of two tax lots, 4410-00200 (54.8-acres) and 4410-00600 (54.2-acres), which are zoned for Public Assembly and Institutional (PAI) use. A portion of this tract is used as a cemetery while the remainder of the property is farmed for grass seed and hay production.

There are four parcels to the south and southwest of the subject tract, and these lots are zoned for Neighborhood Commercial (NC) use. One of these lots is “Bunn’s Village”, and land use on this property runs the gamut of uses permitted in the Neighborhood Commercial zone. Another one these NC-zoned lots, Tax Lot 4411-02300, hosts a furniture retail business with five structures located on the property. The remaining two parcels zoned for Neighborhood Commercial use are used as a car dealership.

Further to the north of the subject tract, towards the end of NE Lone Oak Road North, the land is zoned for Exclusive Farm use (EF-80 and EF-40) and the predominant land use is farming. Farm uses in the surrounding area include grass seed and hay production, hazelnut orchards, and nursery stock.

5. *Water:* The application indicates the parcel is to be served by a well.
6. *Sewage Disposal:* The application indicates that any use occurring on the property will be served by a septic system.
7. *Exception:* The property was found to be a committed exception to Goals 3 (Agricultural) and 4 (Forestry) in Code Area 4.5 adopted by Exception’s Statement II, April 23, 1980 and was plan designated VLDR, Very Low Density Residential. The exception area is not within an ‘unincorporated community’ as that term is defined by OAR 660-022-0010(10).
8. *Previous Actions:* There is no previous land use history associated with either of these parcels.

B. Zone Change and Plan Amendment Provisions and Analysis

1. The application states that the intended use of the property is for the establishment of a “agriculturally based warehouse and retail commercial services” business which the applicant believes will directly benefit the extensive farming and local wine industries. The Light Industrial section of the county zoning ordinance, Section 702.02, provides a list of permitted uses in the LI zone, and all permitted uses in this zone are subject site design review. One of the uses permitted in the LI zone is: *Farm, industrial or contractor’s equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage.* It is possible that the applicant envisions applying for their proposed use under this subsection of the county zoning ordinance and the exact details for this use will need to be provided in the site design review process.

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2. This comprehensive plan amendment and zone change application must comply with the Yamhill County Comprehensive Plan, the Oregon Revised Statutes, and the Oregon Administrative Rules, which will be addressed throughout this report.
3. The application must also comply with the standards and criteria in YCZO Section 1208.02. These provisions are:
 - (A) *The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*

Though the majority of the Yamhill County Goals and Policies are aspirational and not to be mistaken for, or interpreted as, approval criteria it is required that they be considered. It is a fact that some of the goals and policies conflict with one another. They are simply to be used as a guide to aid decision makers. For example, where goals or policies conflict the decision makers need to weigh the evidence and decide which goal or policy the request satisfies. Therefore, the Planning Commission and Board of Commissioners would need to decide whether it is more appropriate for the 13-acre tract to be preserved for rural residential use or if it is better suited to rural industrial development.

Since an exception to Statewide Planning Goals 3 and 4 has already been taken for the subject parcel, Comprehensive Plan goals and policies related to agricultural and forest lands are not applicable. In addressing this standard, the application states, in part, that the zone change facilitates the establishment of an agriculturally based warehousing and retail business which the applicant contends will directly benefit the farming community of Yamhill County.

Goals and policies which staff feels are applicable are addressed below:

Industrial Development Goal Statement I.H.1: To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.

Policy I.H.1.b: To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

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The above goals and policies encourage the location of industrial uses within the urban growth boundaries. Although not located within an urban growth boundary, the applicant's tract is located approximately 1,500-feet from the McMinnville city limits and along a stretch of Highway 99W that includes a mix of Light Industrial (LI), Neighborhood Commercial (NC), residential (VLDR-2.5 and AF-10), and farm use (EF-40 and EF-80), so much of the necessary infrastructure is in place for the transition of this property from vacant residential land to Light Industrial operation and use. The subject tract is bordered to the south by Highway 99W and the applicant notes that the operation of the farm warehousing and retail business from this location is ideal because it efficiently facilitates the delivery and pick-up of farm supplies and materials. The applicant notes that the farm warehousing and retail business envisioned at this location is compatible with the character and available services of the surrounding area which include other industrial and commercial businesses, such as a winemaking supply shop, tractor dealership, barrel manufacturing, propane gas wholesaler, as well as vehicle storage and sales. The proximity of this tract to the city of McMinnville and other industrial and commercial uses strongly suggests that this industrial area, although outside of an urban growth boundary, can be adequately served by necessary major utility and access services.

The applicant conducted an analysis of all available land zoned for light industrial use within the unincorporated areas of the county. This analysis found that most light industrial zoned land is found near the outskirts of incorporated cities or in rural unincorporated communities where light industrial uses were established prior to Oregon's zoning regulations. The analysis found that many of these light industrial zoned lots are smaller with established uses in place with approximately 25.6-acres of vacant light industrial zoned property available in the county or approximately 15% of the total light industrial land (approximately 171-acres) in the county.

The applicant has identified four largely vacant light industrial zoned properties in the county and found that these four locations each have distinct challenges when compared to the applicant's tract. The applicant has identified that the undeveloped size of a property would be the most significant factor for developing the envisioned agricultural supply, warehousing, and retail business. Two of the vacant light industrial lots are comparable in size to the applicant's tract. The first light industrial property that is similar in size is located along the southwestern outskirts of Sheridan and measures approximately 12-acres, Tax Lot 5634-00100. This 12-acre lot is split-zoned with approximately 7-acres zoned for Light Industrial use, approximately 4-acres located within city limits, and the remaining acreage zoned for Exclusive Farm use in the EF-80 zone. Although suitably sized for the proposed use, this property has challenges identified by the applicant which include more limited access options for delivery of material and for customers of the business. This property has no access to a highway or major arterial road so delivery vehicles and guests would need to travel through central

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Sheridan along local roadways. An additional challenge to future development of this property that was not identified by the applicant is that this parcel is also located within a hazard area, the South Yamhill River 100-year floodplain, so any construction occurring on the property would need to go through an additional land use process—the floodplain development permitting process.

The second site identified by the applicant as comparable in size is an approximately 8.5-acre area of land located approximately 0.8-miles south of Dundee, north of SE Fulquartz Landing consisting of five Tax Lots including 3335-04400, 3335-04402, 3335-04407, 3335-04408, and 3335-04410. One of the challenges identified by the applicant for developing these 8.5-acres is that the lots that constitute this undeveloped light industrial land is a patchwork of differing owners. While these lots may be ideal for many uses permitted in the light industrial zone, the access to these lots is limited due to the current interface of Highway 99W and SE Fulquartz Landing which currently only allows 'right in/right out' access to and from Highway 99W and does not allow for left turns onto or from the highway. The applicant also identifies the railroad crossing, just east of the Highway 99W and Fulquartz Landing intersection, as a feature that would likely need to be improved to facilitate the safe use by patrons and delivery vehicles to the applicant's business.

The third undeveloped site identified by the applicant is 4.5-acres in size and is located approximately equidistant from McMinnville and Amity, along Highway 99W. This 4.5-acre tract is comprised of two lots, Tax Lots 5405-01205 and 5405-01206, both measuring approximately 2.5-acres in size. In 2017, the westernmost of the two lots received land use approval for the operation of an RV storage business on the property which means that currently only 2.5-acres are currently unused. The applicant cites the smaller size and distance from McMinnville as factors that make developing this site less viable than the applicant's 13-acre tract.

The final available site identified by the applicant is a 1.5-acre property, Tax Lot 4411-03803, located northeast of McMinnville and just 0.1-mile east of the applicant's property, also on Highway 99W. It appears as though approximately 0.5-acre of the property is currently being used in conjunction with the tractor dealership located on an adjacent lot. This partial use of the property leaves only an acre available for use by another business, and the applicant indicates that a single acre of available land is far too small to accommodate the proposed farm supply business.

The applicant's analysis found that there were no available Light Industrial properties in the county that were comparably or better situated to the operation of a farm supply, warehousing, and retail business. The applicant found that the proposed zone change and comprehensive plan amendment is the most reasonable alternative available to the applicant. The similar types of uses and existing zoning in the surrounding area appear compatible with the proposed LI zone. An

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appropriate amount of land, properly located in the community, will help to assure a long-term diversified employment base, and will provide a useful service to residents of the local area.

Policy I.H.1.b states in part that industrial uses : . . . *will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.* The purpose of this policy is to assure that industrial uses, which are expected to utilize large amounts of water or electricity, will be located within close proximity to places where those utilities are located. The applicant's tract and the surrounding area do not have access to city water or sewer services. The applicant states that a well is already in place on the property which could meet the needs of the proposed business. The application states that any future development of the site will be served by a septic system. The County Sanitarian has said that any further development or change in use will need to meet all applicable wastewater management standards and requirements. As discussed in greater detail above, the subject tract is located in an area with multiple light industrial and commercial uses, as well as being located a short distance from McMinnville along a major highway (99W), so the infrastructure in the surrounding area is fairly extensive and designed to support the industrial and retail businesses of a similar scale to the farm supply business described by the applicant.

The Yamhill County Comprehensive Plan, Section I.H., Goal 1, Policy h., directs Yamhill County to consider that:

Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation and full urban services are extended into the area, if appropriate, and the extension or designation of land use and services is consistent with all other goals and policies of the comprehensive plan.

The applicant's request for a zone change and comprehensive plan amendment on the subject parcel from Very Low Density Residential to Light Industrial represents the designation of a new Light Industrial tract rather than the extension of an existing industrial area. The applicant conducted an economic analysis regarding the present supply and demand for Light Industrial-zoned land. This analysis also estimated the demand for businesses that support the agricultural uses and activities occurring in the local area. This analysis found that approximately 15% of the light industrial land in the unincorporated areas of the county were vacant when the analysis was conducted. Section B.3. of this staff report, above, more fully describes these vacant or partially vacant light industrial lands.

The proposed zone change and comprehensive plan amendment appears to be in keeping with the character of the surrounding area which include a mix of light

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industrial, commercial, and residential uses. The surrounding area appears to have adequate utilities and services in place to serve the proposed use of the property with wastewater management service and fire hydrants or other fire safety service being the new services needed if the plan amendment and zone change request is approved and the applicant proceeds with a site design review request for the operation of a farm supply business on the subject tract. The McMinnville Fire Department also identified that the applicant should provide plans for the improvement of the water infrastructure at the site if it is developed in the future for a use other than residential. Some of the businesses in the surrounding area are served by septic systems that are managed by the Department of Environmental Quality while others may be under the authority of the county sanitarian. Any future development on this property would be required to receive authorization of a wastewater management system prior to the issuance of building permits for any future development. Aside from the development of an approved septic system and fire hydrants or other fire safety service, the subject parcel will not require the extension or expansion of services to accommodate the proposed zone change and plan amendment.

The economic analysis conducted by the applicant found that there appears to be a demand for additional light industrial zoned land to facilitate the growth of standalone industries, as well as for those businesses that support the resource use industries (farm and forest uses) prevalent in local area. The light industrial zoning ordinance also allows for the construction of a caretaker's dwelling in conjunction with an approved use on the property. The onsite residency by a caretaker can provide some additional security to the business owner and potentially low cost housing for an employee or business owner. The applicant's plan for the property, as described in the application, provides a balance to the county's comprehensive planning goals related to industrial and commercial growth without sacrificing the provision of housing for an employee or caretaker.

4. (B) *There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*

Regarding the need for the proposed use, criterion (B), the application states that a farm supply store will be established on the tract if the plan amendment and zone change request is approved by the county. This is a permitted use in the LI-zone, per subsection 702.02(B) of the YCZO. The applicant conducted an economic analysis and found that the type of farm supply store envisioned for the property has had one of the fastest growth rates in the area, since 2001, despite some of the economic challenges experienced over the last twenty years. The applicant's analysis found that this growth trend is expected to continue in the Mid-Valley counties which for the sake of this analysis include Linn, Marion, Polk, and Yamhill. The applicant's economic analysis found that the number of farms in

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the county grew slightly since 2017, despite a marginal decrease in the total amount of acreage being farmed. The applicant's economic analysis also forecasts that employment in resource industries will continue to see growth in the future in the local area. The applicant's proposed farm supply and storage business is designed to support and market to the thriving farming community in the local area.

The applicant's analysis found that approximately 85% percent of the available LI-zoned land is currently under use, and that several of the undeveloped sites have some unique challenges including some with smaller lot sizes, limited access to market, location within a 100-year floodplain that make these alternate locations less suitable for the use proposed by the applicant. The availability and suitability of other LI-zoned lands was discussed in greater detail above, in Section B.3. of this staff report. To succeed, the applicant's economic analysis found that access to a major transportation corridor is key, as is the size of the parcel which allows for a larger supply store while also facilitating additional services such as wholesaling and warehousing of farm equipment and goods. The applicant's economic analysis suggests that there is a market demand for businesses that support the local agricultural community. Looking beyond the applicant's proposed use of this property, if rezoned to Light Industrial, a 13-acre lot zoned for light industrial use provides flexible development opportunities as the county's economy grows and evolves.

5. (C) *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*

A portion of criterion (C) requires the proposed change to be shown to be appropriate considering the surrounding land uses along with the density and pattern of development in the area. A more comprehensive description of the surrounding land uses, the development pattern in the area, and changes to the surrounding area, as well as existing utilities and services in the area is provided in greater detail in Sections A.4., A.9., and B.3. of this staff report. Staff will consider whether the proposed zone change and comprehensive plan amendment from VLDR to LI is appropriate considering the surrounding land use information presented earlier in this staff report. The subject property is located near the Bunn's Village development (zoned for Neighborhood Commercial uses) which itself is surrounded by a variety of uses ranging from light industrial, public assembly (Evergreen Memorial Park and cemetery), rural residential uses, as well as the agricultural activities conducted in the area. The subject tract is located adjacent to a major transportation corridor in Highway 99W, and just east of McMinnville the county's largest population center. This nexus of development is of a much greater density and intensity than of pretty much any other unincorporated area of the county. The long established commercial and

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industrial uses in this area appear to be adequately served by electrical, transportation, and communications utilities and services. New services that will need to be established on the property include the use of an on-site well for potable water, the establishment of fire hydrants and/or other fire safety improvements that meet the McMinnville Fire Department standards, while wastewater will be managed by a system approved by either the county sanitarian or by the DEQ depending on the size and type of wastewater management system approved for the future use of the property. Access to the property is via NE Lone Oak Road North, which intersects with Highway 99W along the tract's southeastern property line. If the plan amendment and zone change request is approved, any future development of the tract itself would be subject to the Site Design Review process. This site design review allows for the county to evaluate the potential impacts more specifically to the properties in the surrounding area prior to approval of a use permitted in the Light Industrial zone. The site design review process provides the county and applicant to evaluate the existing services to verify those in place are sufficient to support the specific development, or if not, to what extent improving existing services or establishing new services would be required.

Staff did receive comment from a surrounding property owner, David Hays, regarding the applicant's request for a plan amendment and zone change. Mr. Hays owns an adjacent parcel to the north, Tax Lot 4410-00202, and Mr. Hays appears to support the proposed development of the property as a farm supply store so long as there are conditions put in place that mitigate potential impacts to surrounding property owners. Mr. Hays suggests that a "buffer zone" could be established as part of the plan amendment and zone change process, and this "buffer zone" could be a 100-foot setback that permits those uses normally allowed within the VLDR zone and prevents future light industrial operations from being sited too near the existing residential properties. This limitation to the use of the property could be established as a component of a limited use overlay if the Planning Commission or the Board of Commissioners feel such a limitation is justified.

Mr. Hays also requests that all parking, loading and unloading be maintained on site and these activities not be allowed off-site. Typically, this type of limitation could be established during the site design review application process when a project is proposed for operation on the property. Staff recommends that this request by Mr. Hays be taken up if the comprehensive plan amendment and zone change request is approved and when a site design review request is submitted to the planning department for review.

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6. (D) *Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*

As discussed in greater detail in section B.3. of this staff report, the applicant submitted an analysis of the other lands in the unincorporated area of the county that are zoned for Light Industrial use. The applicant identified several challenges to the use of the limited number of LI-zoned lots in the county. The applicant evaluated these properties based upon the feasibility of these other LI-zoned lots to support the farm supply store that the applicant would like to develop on this property in the future, if the plan amendment, zone change, and subsequent site design review applications are approved. The applicant found that some of the other lots already designated for Light Industrial use have issues with access to major arterial roadways for customers and delivery vehicles, proximity to customers, while other lots were too small for the use being pursued by the applicant. County staff also found that one of the available LI-zoned parcels is located within a hazard overlay district, namely the 100-year floodplain, which presents a challenge for the future development of that specific property. For the reasons provided in greater detail in the applicant's economic analysis and distilled in Section B.3. of the staff report, the applicant was unable to locate any available alternative lands that are as well-suited as the subject tract.

7. (E) *The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*

As noted above, the property was found to be a committed exception to Goals 3 (Agricultural) and 4 (Forestry) in Code Area 4.5 adopted by Exception's Statement II, April 23, 1980 and was plan designated VLDR, Very Low Density Residential. Goal 14 (Urbanization) requires a limitation on the intensity of development to that which is rural in nature, otherwise, an exception to the Goal is required. Additional limitations, such as setbacks and septic requirements would further limit development of additional structures on the property, thus limiting the scale to conform with other rural Light Industrial properties in the county. Section 702.07(C) in the LI zone states: *The maximum parcel coverage shall be thirty (30) percent for any use.* The subject tract is 13-acres in size, allowing a maximum of approximately 169,884-square feet of structures on the property. Additionally, the Planning Commission or Board of Commissioners has at their disposal the option of putting a Limited Use Overlay in place, described more fully in Section C. of the staff report below, and the establishment of a Limited Use Overlay on the tract can act to place limits on the type of use(s) permitted on the property and/or to place more strict parcel coverage limitations, maximum building height, or other standards and limitations that the Planning Commission or the Board feels are a reasonable way to limit impacts to surrounding properties.

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C. Limited Use Overlay Provisions

1. Section 904.03 of the YCZO contains provisions for limited use overlays. It states:
 - (A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.*
 - (B) *The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*
 - (C) *Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*
 - (D) *Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*

If the plan amendment and zone change request is approved, the applicant intends to use the property to establish a farm supply and storage business. A well is currently in place on the property which can be used to supply water to the business. A septic system or other approved wastewater treatment system will need to be established to serve the proposed business. The application indicates that the northernmost of the two existing driveways is tentatively planned to serve the future development of the property, if the zone change and plan amendment request is approved, although this issue will need to be addressed during any future site design review process. Aside from the establishment of a farm supply store with limited storage, the applicant did not consider any alternative Light Industrial uses for the property. If deemed appropriate, the Planning Commission and/or Board of Commissioners can choose to apply a limited use overlay to allow only the specific farm supply store and storage uses described in the application which are permitted uses pursuant to subsections 702.02(B) and 702.02(C) of the YCZO. The Planning Commission and Board could also limit the parcel coverage permitted on the property which could in turn limit the size of the store on the property which may decrease the amount of traffic impacts to the surrounding transportation system. A Limited Use Overlay may be modified in the future through a future zone change request, so while the Limited Use Overlay can be challenging to revise these limitations are not etched in stone so future owners of the property have the opportunity to make changes if market demands change.

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D. Goal 12 (Transportation Rule) Provisions and Analysis

1. The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:

(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 are 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.

2. Regarding (a) and (b), the applicant conducted a traffic impact analysis in order to estimate the potential consequences to the local transportation system if the plan amendment and zone change request is approved, and the farm supply business is eventually approved for development on the subject 13-acre tract. The traffic impact analysis estimated that a reasonable worst-case scenario for the existing VLDR-2.5 zoned lots, if subdivided and fully developed with a single-family dwelling on each lot. The applicant's 13-acre lot could theoretically be divided to create five buildable lots, each of which could support a single-family dwelling as an outright permitted use. The applicant's traffic analysis estimated that a community of this size could reasonably generate approximately 48-weekday trips per day, on average. The applicant's traffic analysis then estimated the traffic generated from the worst-case scenario for the

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development of the property, if the plan amendment and zone change request is approved. This worst-case scenario includes estimating that the site is developed to the maximum build-out permitted by the Light Industrial zoning ordinance. These assumptions include the development of 169,900-square feet of industrial building space, which accounts for 30% of the area of the subject property. This estimate appears to far exceed the applicant's proposed development of the property, but it does provide a useful worst-case baseline. The applicant's traffic analysis estimates that the worst-case scenario for the maximal development of this property, as a Light Industrial tract, could generate up to 702-weekday trips per day on average.

The traffic analysis also evaluated the current traffic conditions of Highway 99W and the intersection with NE Lone Oak Road North. The traffic analysis outlines how intersections are evaluated and graded in terms of delays and congestion, with an "A" grade having the least congestion and delays while an "F" grade represents long delays and high levels of congestion. The Highway 99W and NE Lone Oak Road North intersection currently has a level of service grade of "C" for morning peak hour westbound traffic, and a "D" grade for afternoon peak hour westbound traffic. For eastbound traffic, this intersection has a "B" grade for morning peak hour traffic and a "C" grade for evening peak hour traffic. The applicant's traffic analysis found that an approval of the plan amendment and zone change request, and a maximum build-out of the property would still have no projected impact to the morning or evening eastbound traffic now or in the future. The analysis projected forward to 2041 and found that an approved plan amendment and zone change followed by the maximum build-out of the property may negatively impact the volume and delays to the future traffic for motorists travelling westbound on Highway 99W leading to a down-grade in the level of service to a "D" for morning peak hour traffic and an "E" for evening peak hour traffic.

The traffic analysis reviewed the crash history for the five most recent years, January 2015 to January 2019, at the eastbound and westbound intersections of Highway 99W and NE Lone Oak Road. The applicant's analysis found that over this five-year period there were a total of three reported accidents, two of which occurred at the westbound intersection with the remaining reported accident occurring at the eastbound intersection. One of the accidents involved property damage only, while another accident involved possible injury or complaint of injury, and the third accident led to the non-incapacitating injury to one or more of the involved motorists. Though unfortunate, this number of accidents over a five-year span on this highway are not indicative of a crash rate that exceeds the ODOT safety threshold which could trigger the implementation of safety mitigation developments at these intersections.

The applicant's traffic analysis concluded that the eastbound and westbound intersections of Highway 99W and NE Lone Oak Road, those evaluated as part of this traffic analysis, are projected to operate within acceptable jurisdictional standards through the 2041 Transportation System Planning Horizon. The applicant's traffic analysis finds that there will remain sufficient capacity at these two intersections to accommodate the increase of traffic that would result from approval of the plan amendment and zone change request, followed by a theoretical maximum build-out of the site. The applicant's findings indicate that the performance of the existing transportation facilities in this area will

**YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
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continue to meet the performance standards identified in the county's transportation system plan.

Planning staff did not receive any comments or concerns from either the county Public Works Department or the Oregon Department of Transportation.

CONCLUSIONS FOR APPROVAL:

1. The request is for a Comprehensive Plan amendment from Very Low Density Residential to Industrial and a zone change from VLDR-2.5, Very Low Density Residential to LI, Light Industrial.
2. The proposal is consistent with Comprehensive Plan goals and policies.
3. The proposal is consistent with Section 1208.02 of the Yamhill County Zoning Ordinance.
4. The applicant has demonstrated that the use complies with the Transportation Planning Rule in that it will not have a significant effect on transportation facilities in the area.

CONCLUSIONS FOR DENIAL:

1. The applicant has not demonstrated that the request satisfies Sections 1208.02(B) and (D) in that it has not been shown that there is a need for those uses allowed in the requested zone and that other land within the County is either unavailable or not as well suited for the use.
2. The applicant has not adequately demonstrated that the use complies with the Transportation Planning Rule.
3. The proposal is inconsistent with Comprehensive Plan goals and policies

RECOMMENDATION:

A staff recommendation will be given after the receipt of additional testimony.



MEMORANDUM

DATE: August 5, 2021

TO: Town Investments LLC
PO Box 116
Wilsonville, OR 97070

FROM: Brendan Buckley
Johnson Economics, LLC

SUBJECT: Need Analysis of Supply and Demand for Light Industrial Land in Yamhill County

JOHNSON ECONOMICS have completed a review of the estimated demand and current supply of land zoned for light industrial uses and agricultural-related support businesses specifically. The analysis is prepared regarding a zone change application in unincorporated Yamhill County, to the northeast of McMinnville. The application requests to change the zoning of a roughly 13-acre parcel from VLDR 2.5, Very Low Density Residential to LI, Light Industrial.

This memo reviews the findings of our analysis of demand and available supply of land for this type of use.

I.	Yamhill County Light Industrial (LI) Zoning	2
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	Current Supply of LI Zoned Land	2
II.	Demand for Light Industrial Land in Yamhill County	5
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I. YAMHILL COUNTY LIGHT INDUSTRIAL (LI) ZONING

Purpose and Permitted Uses

The Yamhill County zoning code defines the following purpose for the LI zone:

The purpose of the LI District is to provide for light and general industrial uses with similar service needs within urban growth boundaries and in other locations which are or will be compatible with adjacent urban development. (Zoning Ordinance 702.01)

The LI zone presents a range of permitted uses that have some differences and some overlap with the other two Yamhill County industrial zones (RI, and HI). For the purposes of this analysis, the most relevant permitted uses in the LI zone are found in 702.02(B):

B. Farm, industrial or contractor’s equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage; (Zoning Ordinance 702.02)

These are the proposed uses at the subject site of the zone change application. These uses are not listed as permitted uses in the RI or HI zone, and *therefore the relevant county zone for this analysis is limited to the LI zone.*

Current Supply of LI Zoned Land

The Light Industrial zone is typically found near incorporated cities or in rural unincorporated towns where appropriate light industrial uses traditionally existed. Many of these small agglomerations of LI uses likely predate the zoning code, and the LI zone was applied to them to reflect the established uses. These LI zoned areas are typically very small, often covering a limited number of taxlots.

An analysis of the LI zoned parcels, using GIS resources leads to an estimate of 171 acres of LI zoned land, of which the majority (85%) are already occupied by light industrial uses. (This includes the recent rezoning of a 4.1-acre parcel near McMinnville, which is counted as committed to a proposed use, and therefore not vacant.) An estimated 25.6 acres of the LI zone (15%) are vacant.

Figure 1: LI Zoned Areas in Yamhill County

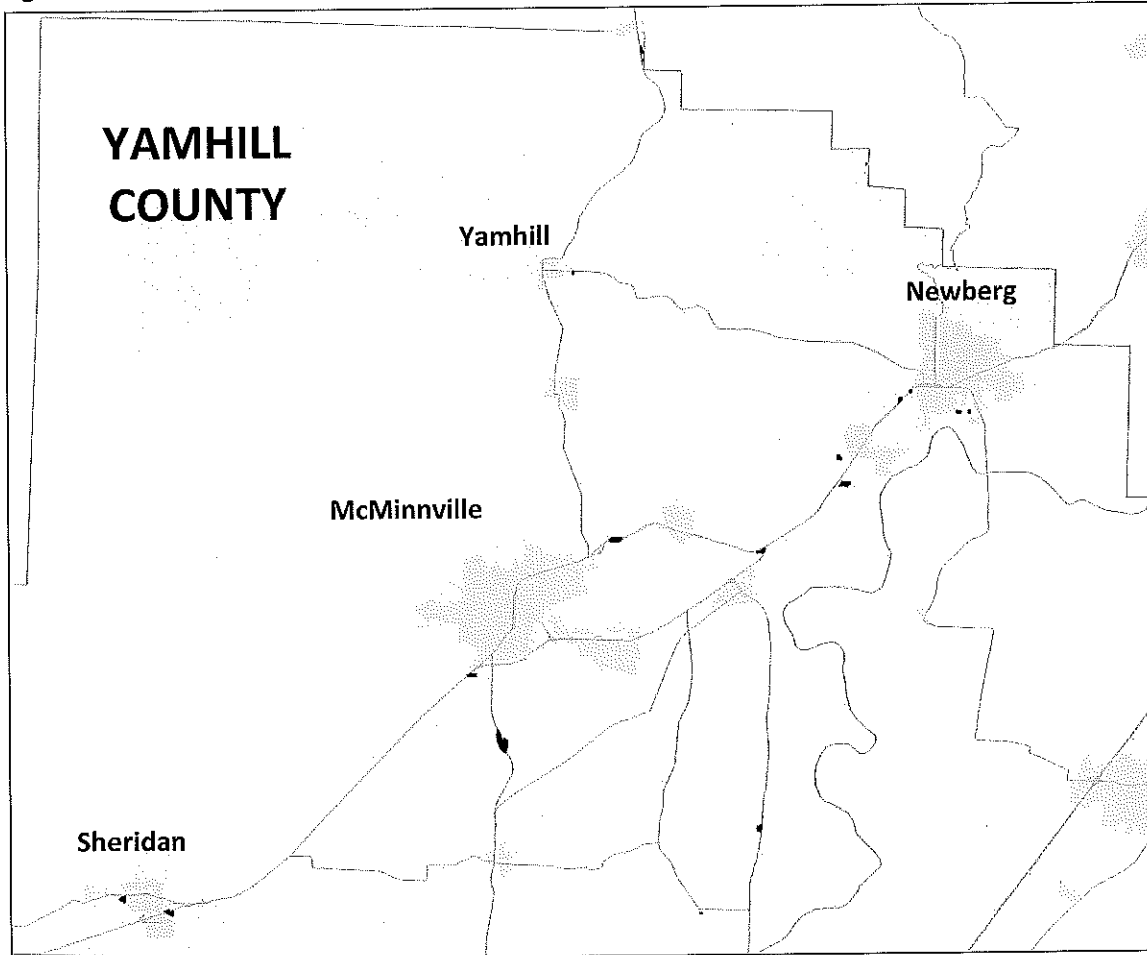
	<u>Area</u>	<u>Share</u>
Total LI Zone:	170.8 acres	100%
Developed:	145.2 acres	85%
Vacant:	25.6 acres	15%

Source: Yamhill Co, State of Oregon, Johnson Economics
 Yamhill County Zone Change: LI Market Analysis



The following figure shows the distribution of the LI zone across Yamhill County, represented by the small black dots on the map. As is apparent, they are generally small and well dispersed.

Figure 2: LI Zoned Areas in Yamhill County



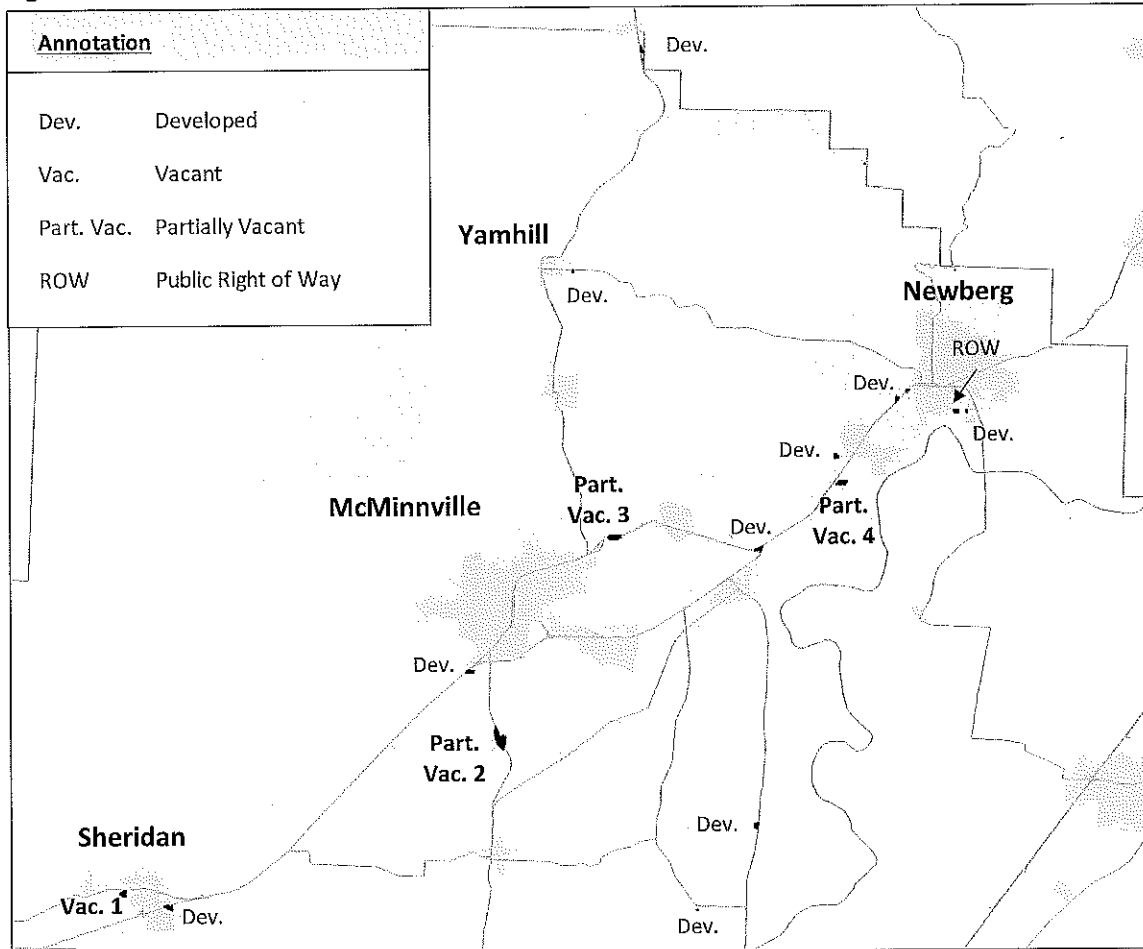
Source: Yamhill Co, State of Oregon, Johnson Economics

Johnson Economics assessed these clusters of LI zoned parcels for current development status. For reference, the following map is annotated by which of the clusters is fully developed or contains some vacant parcels. The “partially vacant” annotation means that the LI cluster contains some vacant taxlots, NOT that the individual taxlots themselves are partially vacant (i.e. half developed).

As the map shows, most clusters of LI zoning in the county are fully developed. One parcel south of Newberg is encumbered by the Newberg Dundee Bypass. A summary of the estimated vacant properties is shown in Figure 4. The number and size of vacant LI parcels is small and has diminished further in recent years.



Figure 3: LI Zoned Areas in Yamhill County



Source: Yamhill Co, State of Oregon, Johnson Economics

Figure 4: Summary of Vacant LI Land

Site	Status	Location	# of Vac. Parcels	Total Vac. Acres
1	Vacant	W edge of Sheridan, S of South Yamhill River	1	11.7
2	Partially Vac.	N of Amity on Hwy 99W, S of McMinnville	2	4.5
3	Partially Vac.	E of McMinnville on Hwy 99W @ NE St. Joseph Rd.	1	~1.0
4	Partially Vac.	S of Dundee, E of Hwy 99W @ SE Fulquartz Landing	5	8.4
TOTALS:			9	25.6

Source: Yamhill Co, State of Oregon, Johnson Economics
 Yamhill County Zone Change: LI Market Analysis



The characteristics and location of the vacant LI parcels identified are discussed more in following sections.

II. DEMAND FOR LIGHT INDUSTRIAL LAND IN YAMHILL COUNTY

Proposed Land Use

The proposed use for the 13-acre subject site is an agricultural supply store, including retail store, office space, and large storage warehouse. This is a use allowed under the LI zone, but not the other county industrial zones (HI, RI).

The proposed use would directly serve the agricultural economy of the unincorporated parts of Yamhill County and is well suited for locations outside of incorporated cities. Location in unincorporated areas facilitates delivery and pick up of farm supplies and materials at the site and allows storage and service of the often bulky and dirty goods outside of a city environment. Rural customers will more easily be able to travel to and access the business without encumbering local city streets.

Demand for LI Land

Support for the ongoing need for LI land in Yamhill County will be driven by the growth of the relevant industries that utilize that land, and the growth of the general agricultural economy which LI businesses tend to serve.

The North American Industry Classification System (NAICS) is the national standard by which industry sectors are classified for economic purposes. The industry subsector best representing the proposed land use are:

NAICS 4442: Lawn and Garden Equipment Supply Stores – This industry group comprises establishments primarily engaged in retailing new lawn and garden equipment and supplies. [This category explicitly includes Farm Supply Stores.]

However, the proposed land use would also compete for other allowed uses in the county's remaining available LI zones. The uses that are most unique to the LI zone exclusively are the following from section 702.02 of the Zoning Ordinance:

A. Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors;

B. Farm, industrial or contractor's equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage;

C. Warehousing, wholesale storage and distribution, and motor freight terminals contained only within a building;



In addition to the proposed land use, the remaining available LI-zoned land in the county must provide capacity and appropriate locations for these uses to meet the county’s needs. (The LI zone may also accommodate the remaining permitted uses allowed under 702.02, however these uses are also permitted by the HI and RI zones, and therefore have more location options. This analysis focuses on uses that must locate in the LI zone.)

Using data provided by the Oregon Employment Department (OED), the following table provides estimated growth in employment in the NAICS subsectors relevant to these permitted uses since 2001 (the earliest data reported by OED). It also provides the projected growth rate for these industries over the next 10 years based on the most recent projection by OED for the Mid-Valley region (2019-2029).

Figure 5: Past and Projected Employment Growth in LI Subsectors

Zoning Ordinance	NAICS Subsector	Employment					Future Employment		
		2001 Jobs	2020 Jobs	Growth ('01-'20)		Annual	Projected Growth Rate	2030 Jobs	Job Growth
702.02(A) Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors;	332-333	420	602	182	43%	1.9%	0.6%	640	39
702.02(B) Farm, Industrial or contractor’s equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage;	444, 811	476	615	139	29%	1.4%	0.7%	657	42
702.02(C) Warehousing, wholesale storage and distribution, and motor freight terminals contained only within a building;	493	18	41	23	127%	4.4%	1.4%	47	6
TOTAL:		914	1,257	343	38%	1.7%	0.3%	1,344	87

Source: Oregon Employment Department, Johnson Economics

All of these permitted LI uses have experienced growth in recent decades, despite two recessions in this period. Overall growth was nearly 343 jobs or 38%.

- The warehousing subsector (NAICS 493) experienced the fastest growth rate but was building off a low estimated number of initial jobs.
- The two manufacturing subsectors (NAICS 332-333) are the next largest at an estimated 602 and grew by over 180 jobs, or nearly 2% per year.
- The farm supply sales subsector (NAICS 4442) and the repair, service, and storage of equipment subsector (NAICS 811) are the largest combined and grew at a rate of over 1.4% per year.



The estimated annual growth rate for these combined LI subsectors was 1.7% per year. The growth rate for total non-farm employment was 1.4% over this period, so these subsectors have outperformed the average in recent decades. Also, for comparison, the estimated growth rate of the population in Yamhill County was just under 1.3% per year since 2000 (PSU Population Research Center). Therefore, the growth of these LI subsectors has outpaced population growth in the county.

Going forward, the OED forecasts that all of these subsectors will continue to see positive growth in the Mid-Valley region (Linn, Marion, Polk, Yamhill) over the next ten years and beyond. The projected growth rate is more modest than that seen in Yamhill County in recent decades. However, looking at past trends we see that Yamhill County's employment growth rate since 2001 (1.4%) outpaced the other Mid-Valley counties: Linn County (0.8%); Marion and Polk (1.2%). If these trends continue, Yamhill will outpace the OED forecasted rate.

Yamhill County Agriculture

The types of businesses locating on LI land are often dependent on the predominant agricultural uses in the county. These firms in unincorporated areas typically serve the niche needs of surrounding farms, vineyards, natural resources, and other rural businesses and residents. The rural economy of unincorporated Yamhill County is dominated by nursery plants, viticulture, and a variety of field crops. Forestry is predominant in the western part of the county where the valley meets the Coast Range.

The U.S. Census of Agriculture is completed every five years, with the most recent conducted in 2017. It found that the Mid-Valley region (Yamhill, Polk, and Marion Counties; excluding Linn), with 4% of the cultivated acreage in the state, produced 23% of the state's gross agricultural commodity sales. This is an indicator of how productive the cultivated land in this region is with high-value crops. OED estimates that crop production, food and beverage processing make up 13% of regional private-sector employment. Using 2010 data, OED found that Yamhill County specifically has a concentration of employment in crop production 19 times higher than the national average. And the value of Yamhill County wine industry is estimated to have doubled since 2010.

Agriculture remains key to Yamhill's economy and continues to grow. Between the 2012 and 2017 agricultural census, the number of farms in the county grew from 2,028 to 2,138, growth of over 5%. In keeping with the long-term nationwide trend, the acreage of land held in farms fell slightly from 177k acres to 169k acres, however this decline is much less stark than in many other Oregon counties. This is due to the long-term decline of farming as an occupation nationwide, but in productive regions such as Yamhill County, the decline is accompanied by an increase in production-per-acre and the market value of remaining cropland.

OED forecasts that growth in employment in natural resources (agriculture, forestry, mining) in the Mid-Willamette Valley will outpace total employment growth, adding 1,300 new jobs mostly in agriculture over ten years.



LI Land Demand Conclusion: The LI zone is designed to provide land for a range of services that support the farms, businesses and residents of the unincorporated county. Future growth is forecasted for all of these categories going forward, while 85% of LI zoned land is developed. Given the limited remaining capacity of LI land in the county, and limited number of locations, there is current and ongoing need for these lands to supply the rural industrial and service uses envisioned.

III. LOCATION CHARACTERISTICS OF AVAILABLE SITES

Subject Site

The subject site is well suited for the proposed use of an agricultural supply store under the LI zone. The site is located near to neighboring uses that are better suited to light industrial and business use than private rural residences:

- The subject site is bordered along the sound edge by roughly 0.2 miles of Highway 99W. Businesses seek this type of high volume, high visibility route but it is less amenable to rural residences.
- The area that surrounds the subject site features multiple rural businesses, including a winery services business immediately to the north and a vehicle storage facility immediately to the east across NE Oak Road. An additional property across NE Oak Rd. has recently been rezoned for LI use and is planned to be the site of LI compatible business use as well.
- Along Highway 99W, to the east of the subject site is an area of current LI zoning. Businesses in this area include a tractor dealership, barrel maker and propane gas wholesaler. Immediately to the south of the subject site, across the highway, is an area zoned Neighborhood Commercial (NC). This is a county commercial zone and includes a car dealership, furniture store and multi-tenant business park of commercial users.
- The subject site is located less than one mile from McMinnville city limits to the west, and one half mile from the Tualatin Valley Highway (47).

These factors indicate that the subject site is located in an area that will be low-impact for conversion to an LI designation, with minimal impact on neighboring uses, and with real business advantages given the highway-adjacent location and visibility. Many other industrial and commercial businesses already exist in the immediate area, indicating that this segment of highway is an appropriate and successful location for businesses on unincorporated land.

As a residential site: As noted, the subject property is currently in the VLDR-2.5 zone. This is a “very low density” residential zone, meant to allow rural housing on lots that average at least 2.5 acres in size. The subject site is roughly 13 acres and can accommodate roughly five rural residential housing units on 2.5 acres each. Overall, this would be a small addition to the county’s housing stock, especially compared to development in the higher-density urban residential zones in McMinnville and

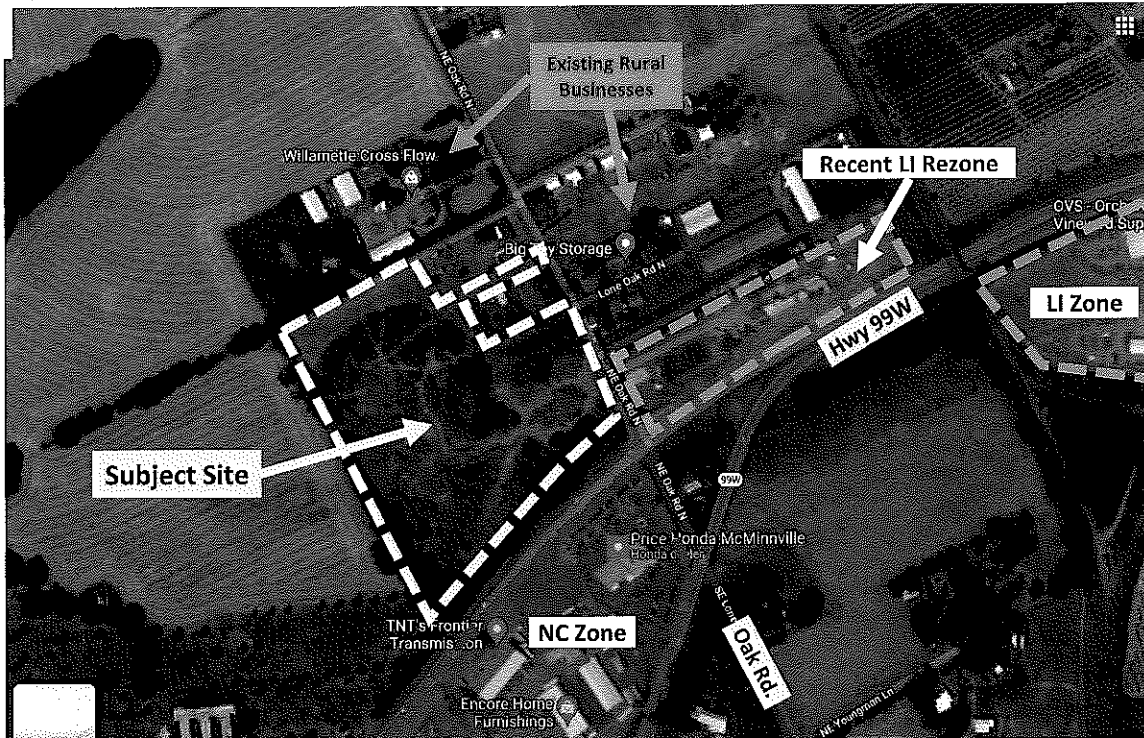


other incorporated parts of the county where this many units might be accommodated on one acre or less.

The combined VLDR zones that allow rural residential development cover an estimated 8,890 acres of unincorporated Yamhill County, or over 50 times the amount of land in the LI zone. Much of the land in these VLDR zones is currently large rural parcels, much of which is vacant, or at least partially vacant, and could hold more housing at the allowed densities.

The 13 acres of the subject parcel represents 0.1% of the VLDR land in the county. As noted, the subject site location is well suited to industrial or commercial uses. As a residential site it can accommodate few housing units and has the significant negative impacts of the high-volume highway adjacent to the property.

Figure 6: Subject Site and Surrounding Area



Source: Yamhill County Maps, Google Earth, Johnson Economics

Other Available LI Sites

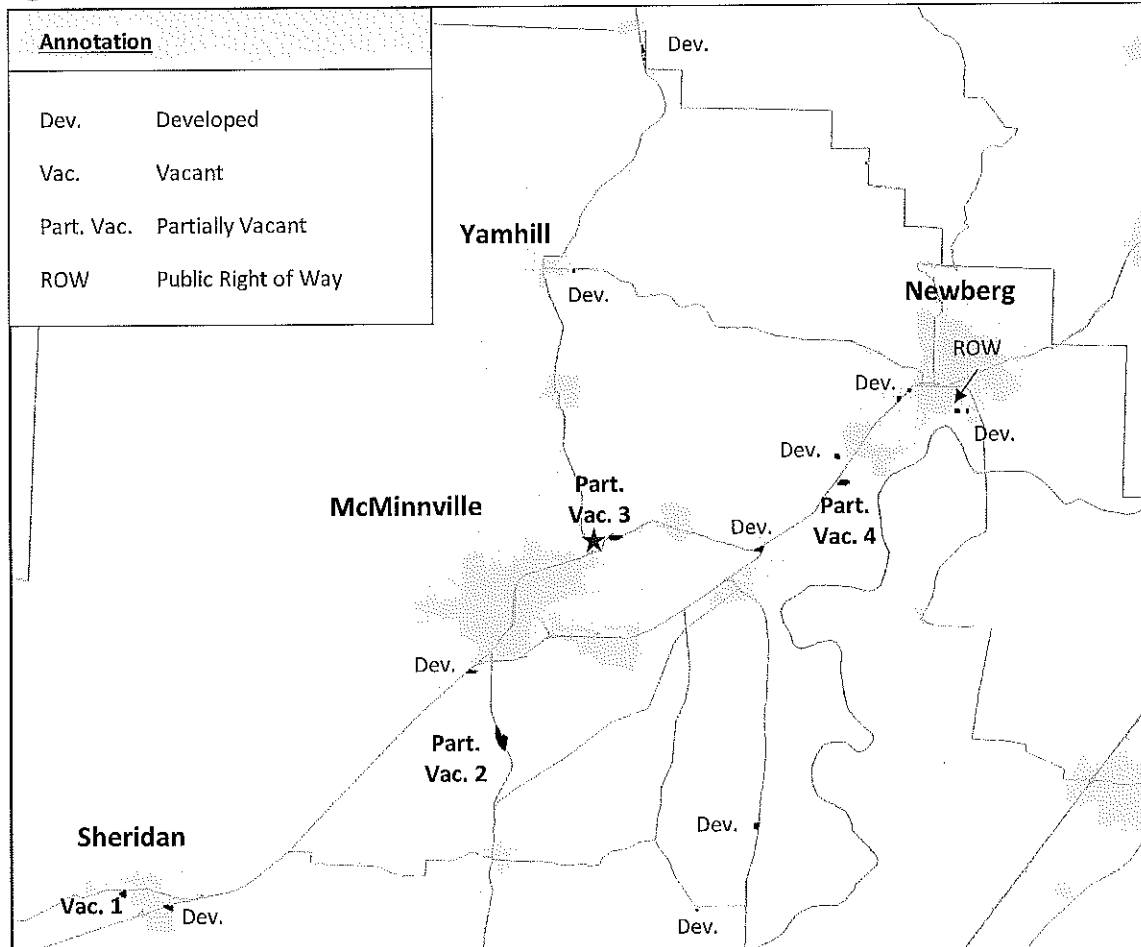
As summarized in Section I of this memo, 85% of the currently LI zoned land in unincorporated Yamhill County is developed. An estimated 15% of LI land, or 25.6 acres are vacant, a supply that has diminished over the past year. The vacant lands are found in four clusters of LI zoning at various distances from the subject site. The summary and map of these vacant LI areas is reproduced below.



Figure 7: Summary of Vacant LI Land

Site	Status	Location	# of Vac. Parcels	Total Vac. Acres	Distance from Subject
1	Vacant	W edge of Sheridan, S of South Yamhill River	1	11.7	16 mi.
2	Partially Vac.	N of Amity on Hwy 99W, S of McMinnville	2	4.5	7.5 mi.
3	Partially Vac.	E of McMinnville on Hwy 99W @ NE St. Joseph Rd.	1	~1.0	0.1 mi.
4	Partially Vac.	S of Dundee, E of Hwy 99W @ SE Fulquartz Landing	5	8.4	7 mi.
TOTALS:			9	25.6	

Figure 8: LI Zoned Areas in Yamhill County



Source: Yamhill Co, State of Oregon, Johnson Economics



In these four areas, there are a total of 9 separate taxlots, but the vacant taxlots in any one of the areas are all contiguous with each other.

- Of the four areas, only the first, a 12-acre parcel in Sheridan is a standalone parcel with LI zoning. In the other three cases, the vacant portions are part of a larger multi-taxlot area of LI zoning, in which some taxlots are developed.
- All of the identified *individual taxlots* within these groups are wholly vacant, other than Site 3. This parcel is a single taxlot of roughly 1.5 acres, of which an estimated 0.5 acres is developed and under use by the neighboring business, with the rest remaining undeveloped.
- The largest contiguous vacant area is Site 1 in Sheridan, at 12 acres. Of these sites, only Site 1 and Site 4 are likely physically large enough to hold a use like the one proposed at the subject site.

Suitability of Other Available LI Sites for Proposed Uses

The sites identified will have the same permitted uses as the subject site if it is rezoned to LI. They have different advantages or disadvantages for these uses. These are summarized in the following table and discussed more below.



Figure 9: Characteristics of Available LI Zoned Areas in Yamhill County

	SITE 1	SITE 2	SITE 3	SITE 4
Size	11.7 acres	4.5 acres	~1.0 acre	8.4 acres
Distance to Subject	16 mi.	7.5 mi.	0.1 mi.	7 mi.
Market Area	Sheridan area; Not well positioned in center of valley for regional access.	Between Amity & McMinnville; in central valley; South Yamhill, North Polk market.	Just NE of McMinnville; well situated to serve central Yamhill market	0.8 miles SE of Dundee on Hwy 99W; Eastern Yamhill market, and Marion W of I-5.
Neighboring Uses	Bordered to the N by the S Yamhill River and single residential street; rail line to the W and S; lumber mill under the same ownership located immediately to east, in city limits.	S Yamhill River to the NE; farmland to E; auto wrecking yard to W; to the S and W are various light industrial businesses including self- and RV storage, manufacturing, warehousing and agr. processing.	Site is bordered by rail line to the W; Hwy 99W to the N; tractor dealership to the E and S.	Site is surrounded by cultivated farm land to N, E, and S. To W is rail line and Hwy 99W. There are multiple rural residences to the east and north.
Access	Access is limited, with no access from a highway or major arterial. Site is accessed via SW Monroe St. which is a local street with residential uses along the N side. Because the site is hemmed in by the river and rail line, it is currently only accessible via central Sheridan.	Access is generally good via Hwy 99 between Amity and Sheridan at SW Squires Way. However, access is inadequate for the type of business proposed at the subject site.	This site has nearby access to/from Hwy 99W via NE St. Joseph Road. But direct access to the vacant portion of this site is limited via the existing tractor dealership that surrounds it to the E and S. A rail line and the highway create borders from the N or W. The use of this taxlot to anyone other than the neighboring business may be limited.	Access is good via Hwy 99 south of Dundee at SE Fulquartz Landing. The LI zoned area is located roughly 600 feet to the east of the highway, with a rail line and at-grade rail crossing in between. For some industrial users reliant on frequent truck traffic, the rail crossing may make this site inefficient.
Visibility	Poor visibility from any major arterial or highway. Site is on W edge of Sheridan, accessible via local streets.	Good visibility from Hwy 99W. Site has a corner directly on the highway allowing signage.	Good visibility from Hwy 99W which borders the site to the north.	LI businesses at the site will have so/so visibility from Hwy 99W. The LI area is located roughly 600 feet from the highway. SE Fulquartz Landing is a rural access road.

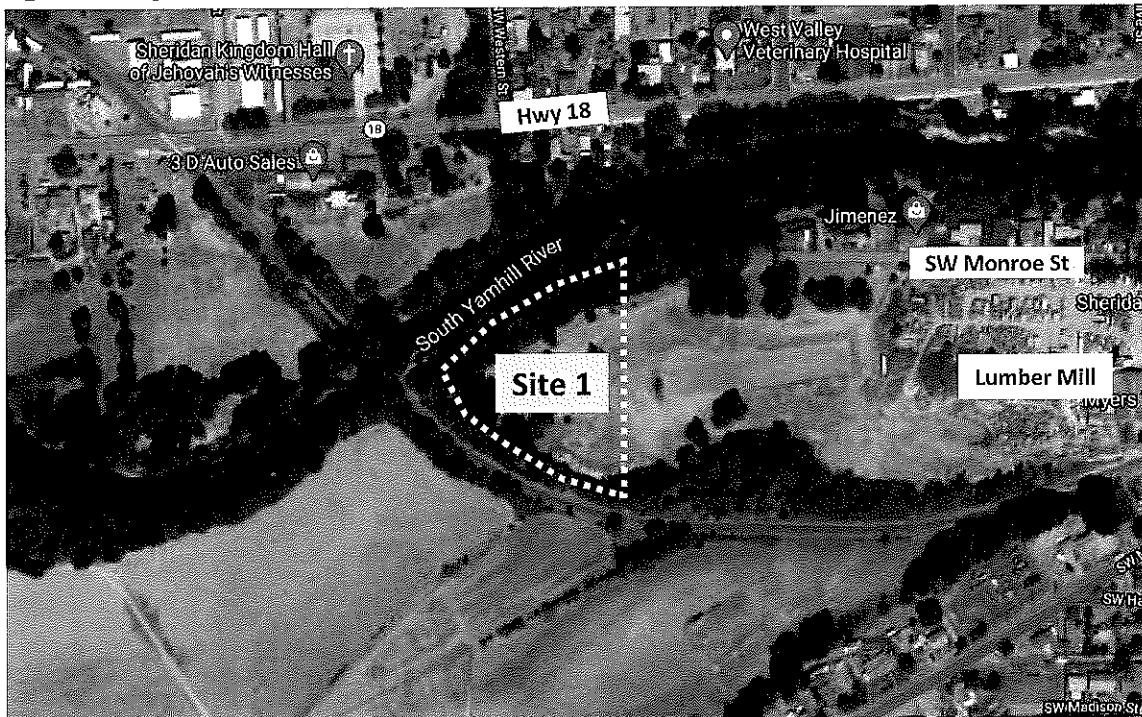
SITE 1 (Sheridan): Site One is a vacant parcel of roughly 12 acres just to the west of Sheridan. It is under the same ownership as the adjacent lumber mill to the east. This site is appropriate for some light industrial uses but is not likely directly competitive with the types of uses that would locate at the subject site. This is because the access and visibility are very poor at Site One for any business that relies on these things, while the subject site rates highly on regional access.

Also, the market area around Sheridan will appeal to different types of businesses because it is not centralized in the valley. At 12 miles distance from each other, prospective businesses will not see Site One and the subject site as being in the same service submarket. The Site 1 location is wholly inappropriate for the type of large agricultural supply store proposed at the subject site. Access for delivery trucks and customers would require traveling on local streets through central Sheridan. For



these reasons, Site One and the subject site are not directly competitive for the same LI uses and are not substitutable.

Figure 10: Light Industrial Zone Site 1



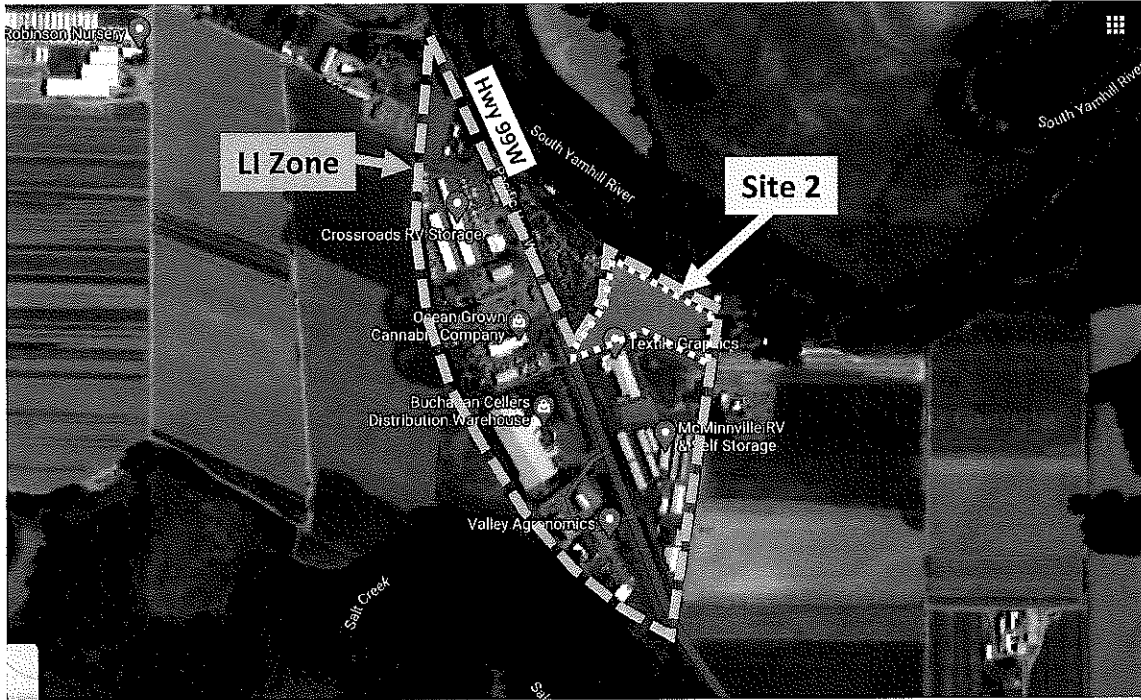
Source: Google Earth

SITE 2 (N of Amity): Site Two is a pair of adjacent vacant parcels under the same ownership in a small LI zoned area on Highway 99W between Amity and McMinnville. The combined site is 4.5 acres, or roughly a third of the subject site. Site Two would be appropriate for many of the same LI permitted uses as the subject site. The main difference is the site size and ease of access from the highway. A large agricultural supply business with warehouse, parking, and circulation space for delivery trucks, would likely be unable to fit on this site, and access for a high volume of customers is somewhat constrained because most of the site sits back from the highway.

At 8 miles from the subject site, and on the far side of McMinnville, Site 2 and the subject site will not serve the same submarket and will not be directly substitutable for most types of LI businesses. The difference in size means the two are likely to attract different types of firms with different scale of operations.



Figure 11: Light Industrial Zone Site 2



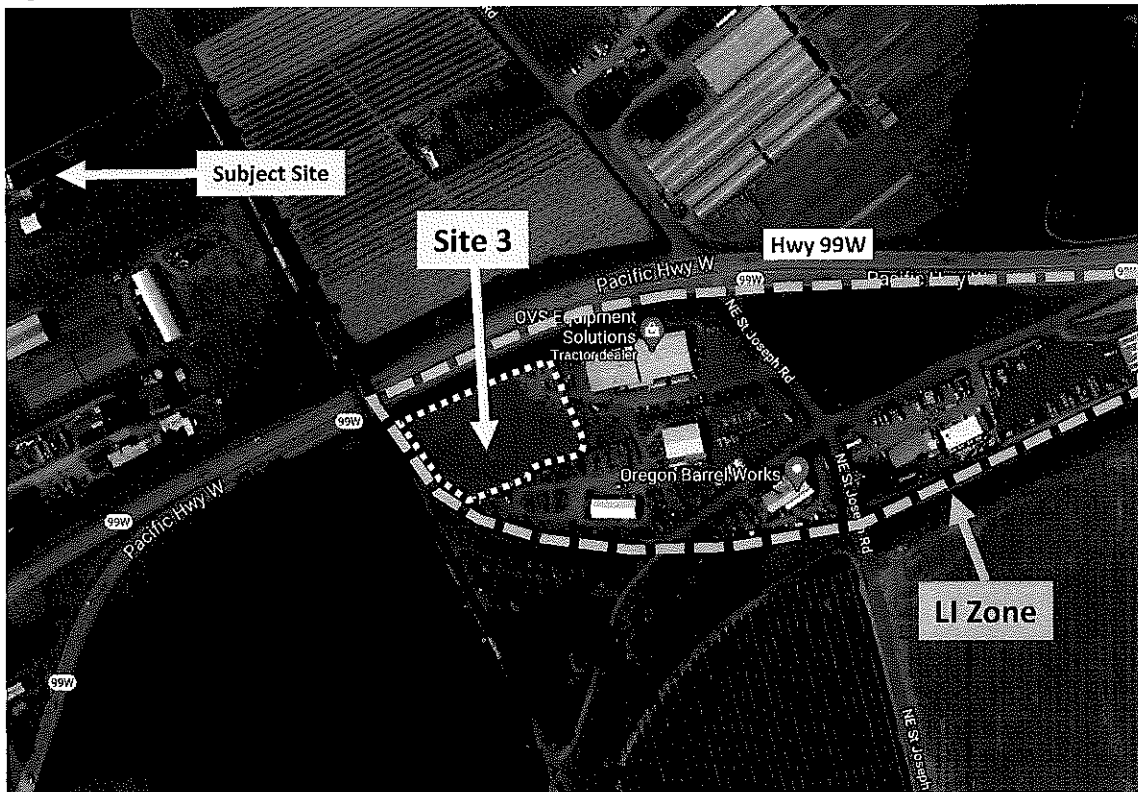
Source: Google Earth

SITE 3 (E of McMinnville): Site Three is the nearest site to the subject site, being located just to the east and on the south side of the highway. This site is significantly smaller than the subject site. The 1.5-acre taxlot is partially used by the neighboring tractor dealership. The remaining vacant portion is estimated at roughly one acre. The likelihood that this parcel can develop with anything other than a further extension of the neighboring business is in doubt. Access to the vacant portion is constrained by a rail line and the highway on three sides, and access from the east appears to require a route through the neighboring business. This parcel is included here because it remains partially vacant and appears to have different ownership than the adjacent parcels.

The location, size, and constrained access to Site 3 makes it wholly inadequate for the scale of business and traffic volume proposed at the subject site. It is considered substitutable with the subject site.



Figure 12: Light Industrial Zone Site 3



Source: Google Earth

SITE 4 (S of Dundee): Site Four is a collection of taxlots totaling 8.4 acres located roughly 0.8 miles south of Dundee, and 7 miles from the subject site. The LI zoned area is located to the east of the highway by 600 feet on SE Fulquartz Landing. The LI zone is surrounded by EFU farmland, and rural homesteads. The unusual location of this LI zone may make it difficult to transition to the envisioned industrial uses. Due to the distance from the highway, access and visibility are not comparable to the subject site.

Currently it appears to be partially vacant, with some vehicles being stored on open fields. The vacant portions are under multiple ownerships and the NE and easternmost portions have recently been developed for rural residential or small farm use. The developed portions leave the remaining vacant parcels in an irregular configuration.

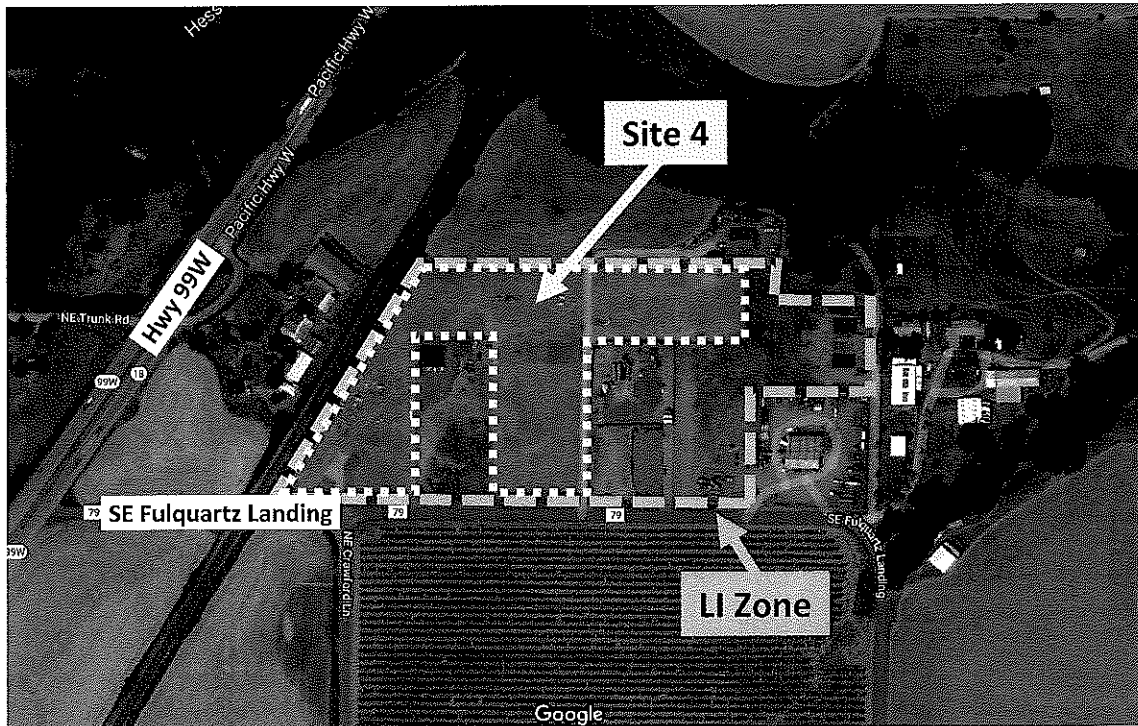
At 8.4 acres, Site Four is the second largest contiguous area of vacant LI zoned land identified in the county. It is likely physically large enough to accommodate the same uses, or multiple uses, that might be attracted to the subject site. However, because of the substandard access and visibility, irregular configuration, and the fractured ownership, this land is unlikely to develop as a single LI site.



The site is accessed from the highway by SE Fulquartz Landing Road. This intersection features “right in/right out” access to and from the highway, which rules out left turns onto and off of Highway 99 heading southbound (westbound). This results in vehicles coming south on 99W have to travel 2.4 miles south to McDougall Rd in order to make a safe U-turn to return to Fulquartz Landing. This significantly hampers practical access to this site. Furthermore, the distance from the highway to the site are not ideal and features an at-grade rail crossing. The rail crossing appears to be in substandard condition, and Fulquartz Road beyond it is an unimproved gravel road.

Site 4 is inadequate for the type of supply store proposed at the subject site. Besides the site’s physical configuration, significant investments would have to be made the Fulquartz Rd. and the rail crossing in order to make it appropriate for customer traffic and deliveries. Assuming such increased traffic at the rail crossing could be approved, the costs of these improvements would be prohibitive to most commercial developers.

Figure 13: Light Industrial Zone Site 4



Source: Google Earth



Figure 14: Summary of Vacant Taxlots

SITE	LOCATION	TAXLOTS	ACRES
SITE 1:	Vacant W edge of Sheridan:	R5634 00100	11.72
			11.72 ac
SITE 2:	Part vac N of Amity on 99:	R5405 01205	2.2
		R5405 01206	2.28
		4.48 ac	
SITE 3:	Part vac E of McMinn:	R4411 3803	1.53 1.53 ac
SITE 4:	Part vac S of Dundee:	R3335 4400	2.34
		R3335 4402	2.1
		R3335 4407	1
		R3335 4408	2
		R3335 4410	1
		8.44 ac	
		TOTAL:	25.64 ac

Source: Yamhill County, Johnson Economics



RECEIVED
MAR 10 2022
YAMHILL COUNTY
PLANNING DEPARTMENT

MEMORANDUM

DATE: March 9, 2022

TO: Town Investments LLC
PO Box 116
Wilsonville, OR 97070

FROM: Brendan Buckley
Johnson Economics, LLC

SUBJECT: Additional Comment on the Need Analysis of Supply and Demand for Light Industrial Land

JOHNSON ECONOMICS previously completed a review of the estimated demand and current supply of land zoned for light industrial uses and the types of businesses allowed in Yamhill County LI (Light Industrial) zone (dated 8/5/21).

In the Board of County Commissioner's hearing of 3/3/22, some additional comments and questions were raised regarding the analysis in the previous memo. This letter is meant to provide additional context to respond and help interpret the prior memo.

A. Substitutability of Light Industrial Sites

One concern raised in the hearing regarded the need for the subject site, to address projected light industrial job growth, given the availability of other parcels in the county that are currently zoned for light industrial use. Generally speaking, the supply of rural light industrial land is low, and will continue to diminish over time.

The analysis did identify a few remaining sites in the county with LI zoning (Figure 9, pg. 12), and discussed the potential strengths and weaknesses of these sites as substitute locations to the subject site.

The remaining sites have significant challenges in accommodating the county's projected growth in rural industrial uses. Three of the four identified sites (Sites 1,3,4) have great challenges based on location and/or odd parcel size/shape to be directly comparable to the location and layout of the subject site.



The remaining site, Site 2, was raised in the hearing as a potential substitute for the subject site. Site two is 4.5 acres, located on a highway, in an existing light industrial cluster, and had decent visibility and access for business operations.

New Active Use of Site 2: *Site 2 is currently under an active use for RV storage.* Recently it has been paved for this purpose and shows evidence of full usage and **should no longer be considered vacant.** It appears that this site development took place in recent years, and the site was still registered as vacant in county mapping data, and appeared that way in aerial photography, at the time the prior analysis was completed.

Though there is no built structure on the site, the paving of a 4.5-acre parcel represents a significant investment, and RV parking/storage is a viable long-term business and should not be considered transitory. For this reason, Site 2 should not be considered part of the vacant inventory of Yamhill County and a substitute for the subject site.

The removal of Site 2 from the inventory reduces the remaining vacant acreage of LI zone in the county by 4.5 acres and leaves roughly 21 acres split between three locations. Over half of this remaining acreage is located in one site in Sheridan that has very limited access.

B. Rural vs Urban Light Industrial Uses

An additional concern raised in the hearing regards the substitutability of industrial sites in the county's incorporated areas to accommodate the types of light industrial uses that would be permitted at the subject site under the LI zone.

However, there are certain industrial uses that are better suited for a rural setting, including those that serve, supply, or provide value added to rural uses such as agriculture, mining, or rural residences. These types of rural industrial users and their customers often benefit for more direct access to these complimentary rural uses. The shipping, storage of process of agricultural goods, as well as dirty machinery and equipment are less well suited to traversing city streets.

The types of industrial users are better suited to a rural location than a city location include, but are not limited to:

- Food processors using local inputs
- Storage, packaging, distribution of rural products
- Farm and rural equipment manufacturing, sale, repair, storage
- Wineries, breweries
- Veterinary services
- Heavy equipment storage for contractors



The prior analysis provided projections of job growth for a variety of industry sectors fitting in these categories (Figure 5, pg. 6). The job growth includes, *but is not limited to*, a farm supply store. However, the job growth projections also included a wide range of other rural industrial uses that would be appropriate for the subject site. The specific categories analyzed that fit the definition of rural industrial use were:

- A. Manufacture of machine tools, medical and dental equipment, electronic instruments, mobile homes, and food products not generating noxious odors;
- B. Farm, industrial or contractor's equipment or materials manufacture, storage, sales, repair or service, including automobile repair garage;
- C. Warehousing, wholesale storage and distribution, and motor freight terminals contained only within a building;

The analysis found a trend of growth in all of these industries and projected additional growth in the coming decade. Given the diminishing supply of rural light industrial land in Yamhill County, there may be limited land capacity to house these jobs that are better suited to an unincorporated location.

Lone Oak Road Comprehensive Plan & Zoning Map Amendment

Yamhill County
Board of Commissioners Public Hearing
March 3, 2022 at 7:00 pm



Project Team

Findings - Attachment 4

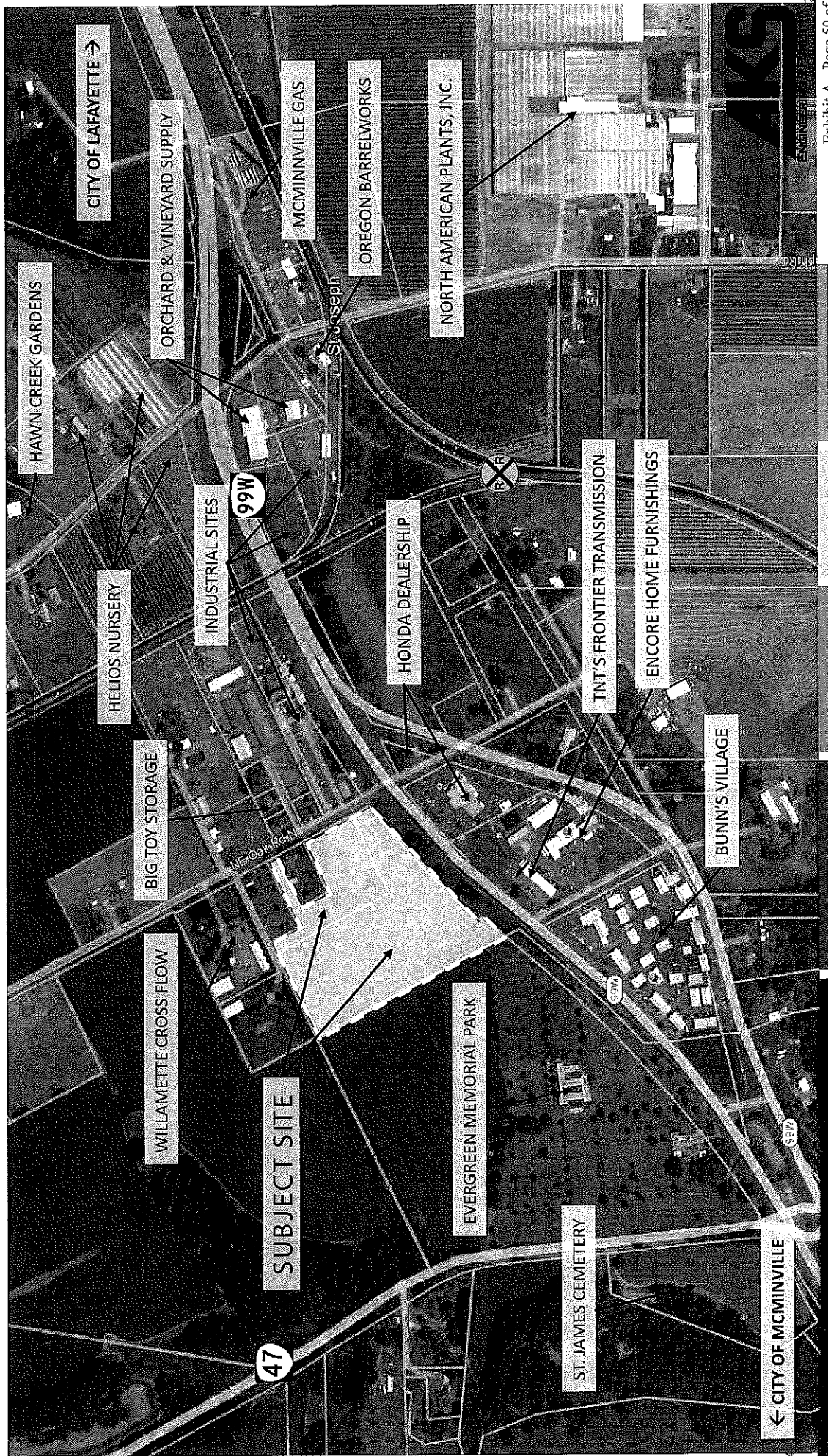
- » Town Investments, LLC
 - » Property Owner/Applicant
- » Davis Wright Tremaine, LLP
 - » Legal Counsel
 - » Elaine Albrich
- » AKS Engineering & Forestry, LLC
 - » Land Use Planning, Civil Engineering, Surveying, Landscape Architecture, Arborist, and Natural Resources Consultant
 - » Marie Holladay, Chris Goodell, Rand Waltz
- » Lancaster Mobley
 - » Transportation Engineering
 - » Daniel Stumpf
- » Johnson Economics
 - » Land Use Economics
 - » Brendan Buckley
- » A Acoustics
 - » Acoustical Engineering
 - » Elki Lahav, PE



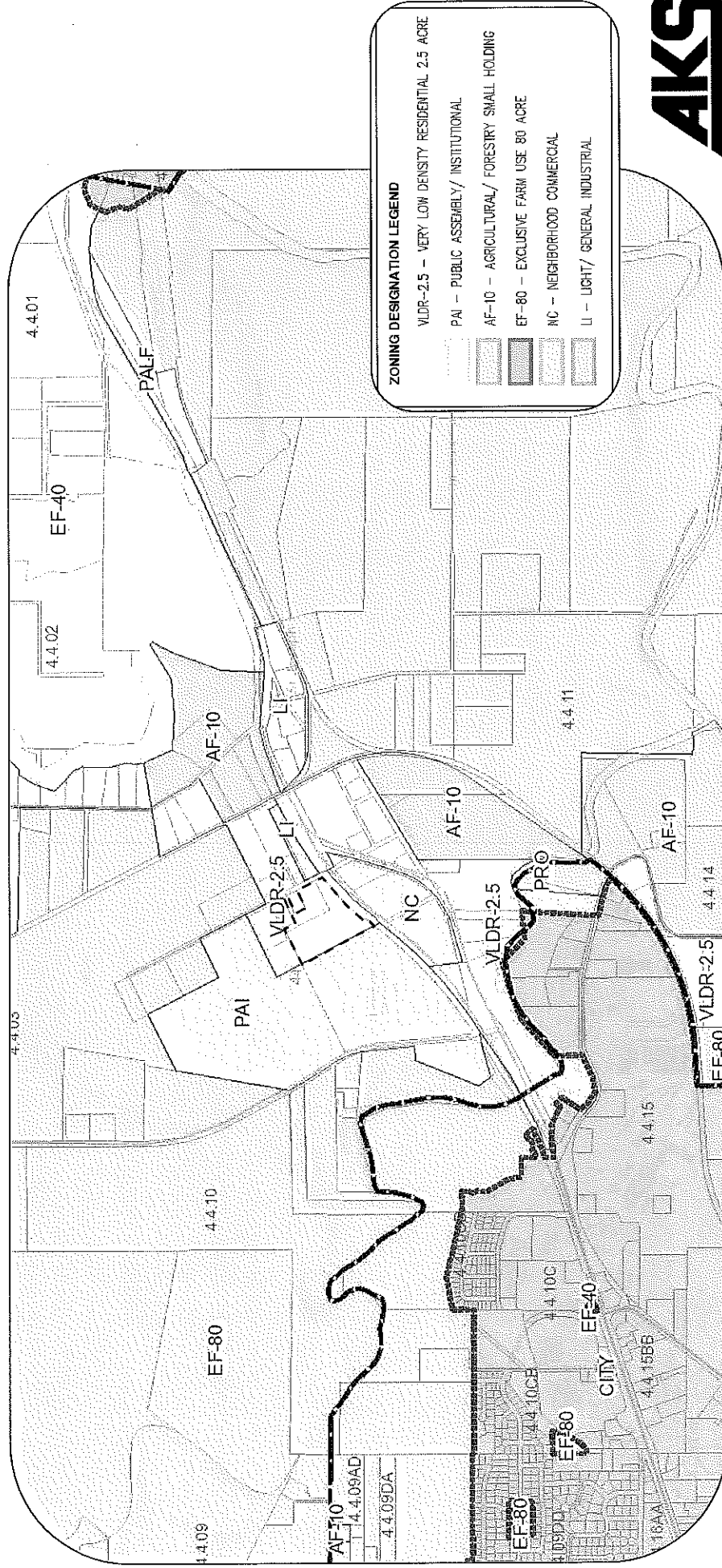
Project Overview

- » Property History:
 - » Owned by Town family since 1967
 - » Used for industrial activities for over 50 years
- » Total Site Area:
 - » ±13 gross acres
- » Two applications:
 - » Comprehensive Plan Amendment
 - » Zoning Map Amendment
- » Process Overview:
 - » Type IV Quasi Judicial Review
 - » Planning Commission Recommended 6-0 Approval with Conditions
 - » Board of County Commissioners Decision





Yamhill County Zoning Map



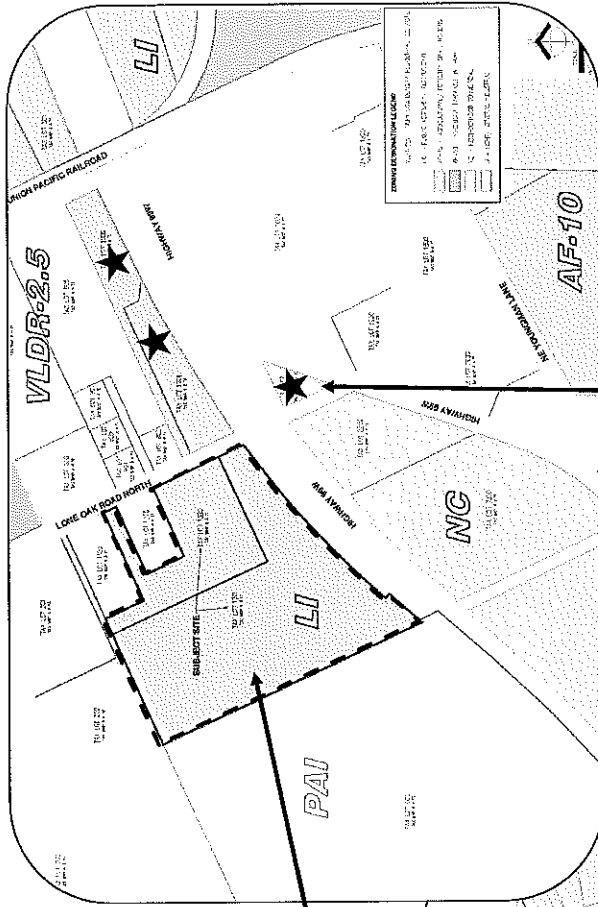
ZONING DESIGNATION LEGEND

- VLDL-2.5 - VERY LOW DENSITY RESIDENTIAL 2.5 ACRE
- PAI - PUBLIC ASSEMBLY/ INSTITUTIONAL
- AF-10 - AGRICULTURAL/ FORESTRY SMALL HOLDING
- EF-80 - EXCLUSIVE FARM USE 80 ACRE
- NC - NEIGHBORHOOD COMMERCIAL
- LI - LIGHT/ GENERAL INDUSTRIAL

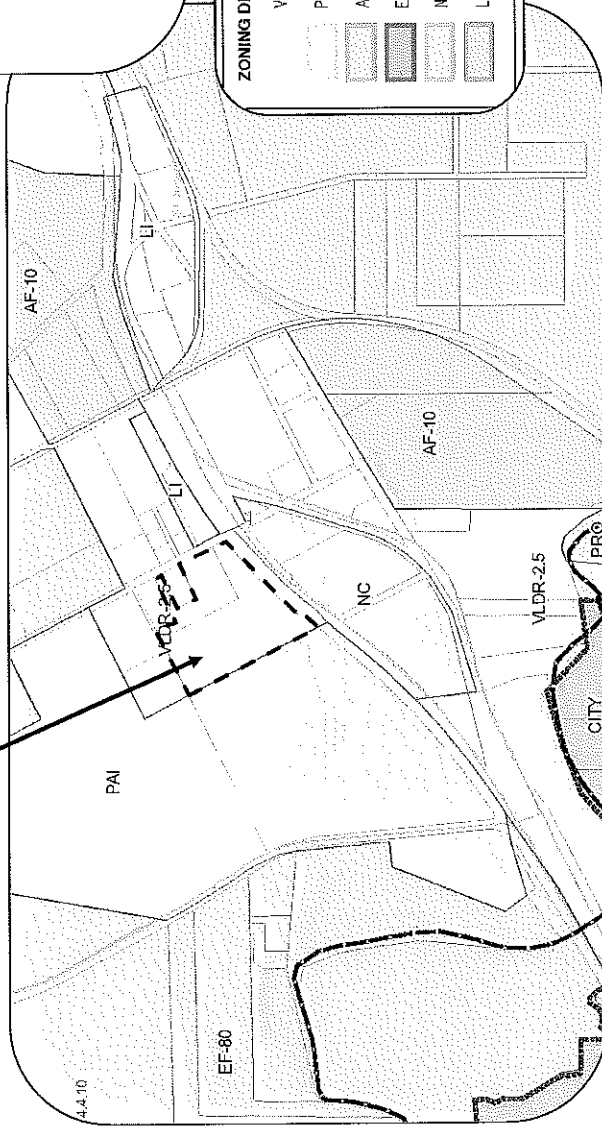


Yamhill County Zoning Map

- » Existing District » Updated District
- » VLDR-2.5 » Light Industrial (LI)



Recent Zone Changes



Planning Commission Hearing


- » The Planning Commission recommended approval of the comprehensive plan amendment and zone change to Light Industrial in a 6-0 vote on December 2, 2021
- » According to evidence in the record, a Limited Use (LU) Overlay District was recommended based on noise concerns and compatibility with adjacent property

Following the PC Hearing:

- » After hearing the concerns from public testimony, the Applicant engaged an expert in the field of noise to investigate
- » After hearing the concerns raised by the cemetery, the Applicant met with the cemetery to discuss possible noise mitigation measures

Zone Change Approval Criteria

- ✓
 - Is consistent with Comprehensive Plan goals and policies
 - Compatible with the character and available services of the area
 - Concentrates industries of similar types and enhances a viable corridor
 - Provides a useful service to residents and businesses

-  ✓
 - The use complies with the Transportation Planning Rule (TPR)
 - Consistent with the Transportation System Plan (TSP)
 - There are no significant effects on transportation facilities in the area
 - All study intersections are projected to operate acceptably per County and ODOT standards

- ✓
 - Is consistent with YCZO Section 1208.02

Approval Criteria – YCZO 1208.02

- » A quasi-judicial change to a zoning map may be authorized, pursuant to Subsection 1208.01, provided that the request satisfies all applicable requirements of this ordinance, and also provided that the applicant demonstrates compliance with the following criteria:

✓ A. Is consistent with the Comprehensive Plan Goals and Policies

✓ B. There is an existing market demand for Light Industrial zoned land



JOHNSON
ECONOMICS

- » LI permitted uses have experienced 38% growth between 2001-2020
 - » Warehousing subsector experiences fastest growth rate at 4.4% per year
 - » Manufacturing subsector at 1.9% per year
 - » Farm supply sales subsector/repair, service, and storage of equipment grew at 1.4% per year

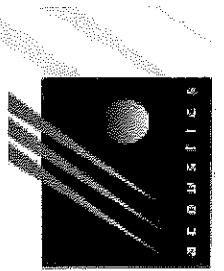
✓ D. Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors

Approval Criteria – YCZO 1208.02(C)

YCZO 1208.02 requires that the Applicant meet four criteria. One criterion, YCZO 1208.02(C), is particularly relevant to the Board given the public comments to date and concerns over Light Industrial zoning noise and compatibility.

- ✓ c. Is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.
 - » Is a suitable location for a variety of LI uses
 - » Enhances a viable corridor of commercial/industrial activity
 - » Supports the Commission’s recent decisions for zone changes nearby
 - » Promotes an efficient transition from rural to urban uses

Acoustical Study



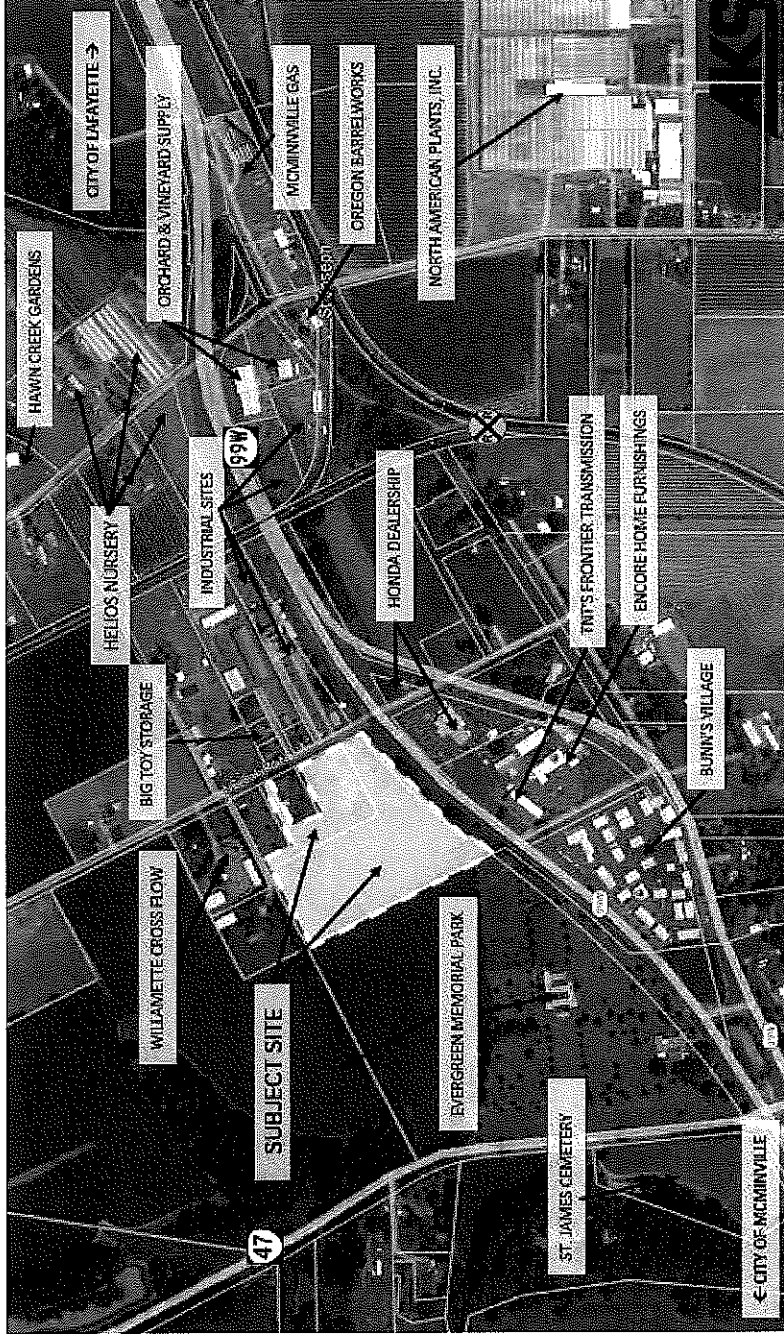
- » A Acoustics Engineering's study compared the existing ambient sounds pressure levels near the businesses in Bunn's Village, the Evergreen Memorial Park, and the subject site.



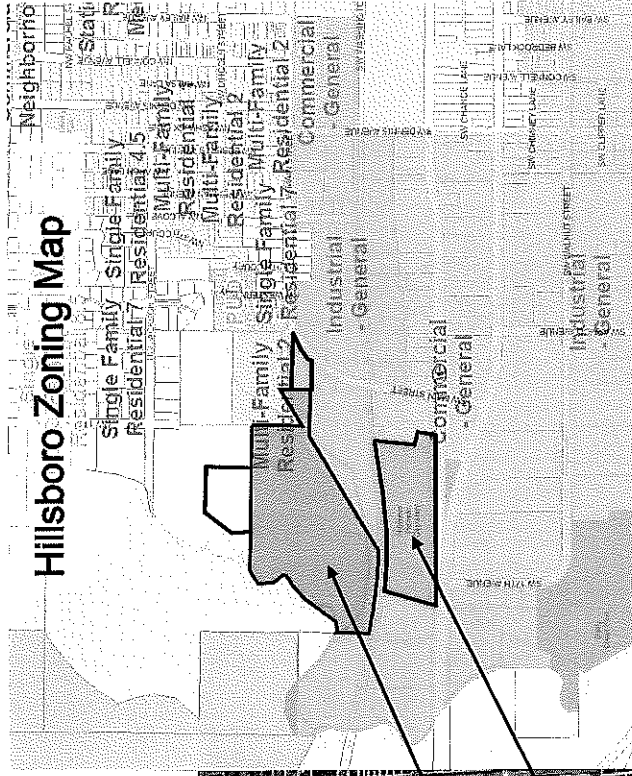
Figure 2: Locations of Sound Recordings

Acoustical Study

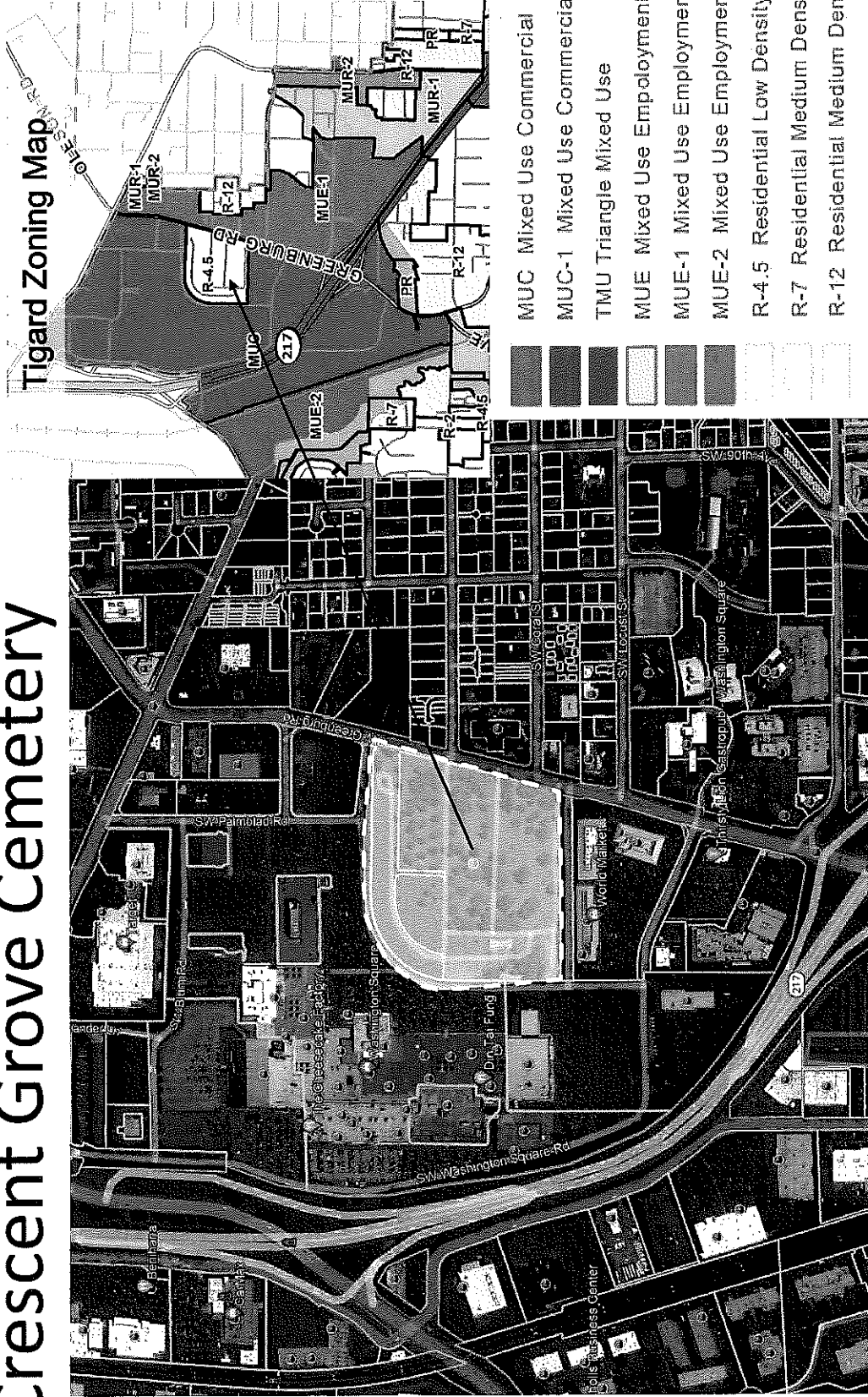
- » The recorded sound at most positions was dominated by highway traffic noise and light airplanes
- » Sound pressure levels for functioning businesses near the site are well below the ambient traffic noise
- » Action is not recommended to be necessary to mitigate potential LI uses



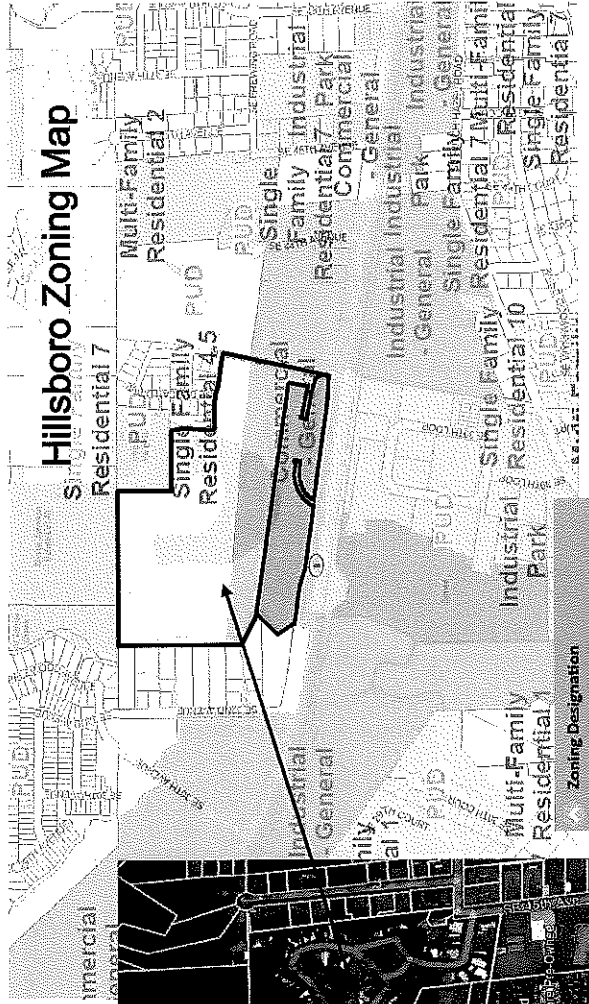
Fir Lawn Cemetery & Hillsboro Pioneer Cemetery



Crescent Grove Cemetery



Valley Memorial Park

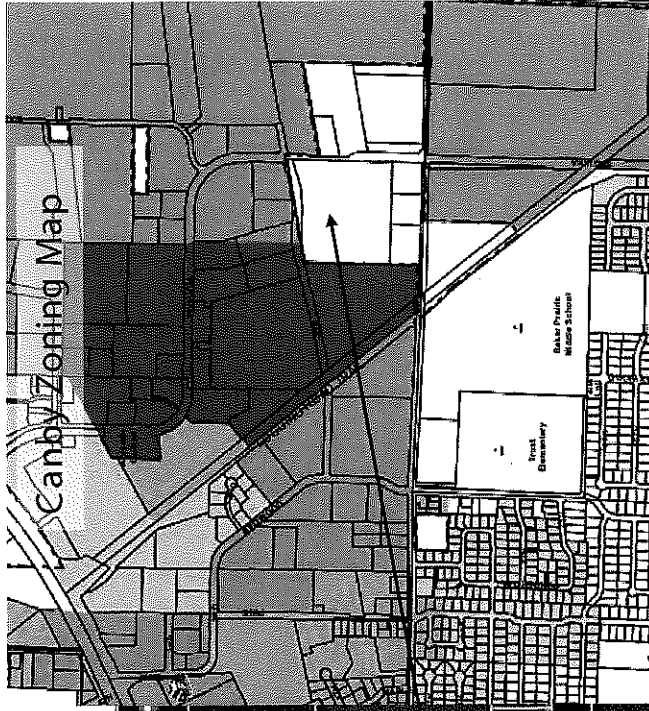


Zoning Designation

	RL Residential Low Density		MU Mixed-Use
	RM Residential Medium Density		MU-UR Mixed-Use - Urban Residential
	RH Residential High Density		MU-UC Mixed-Use - Urban Commercial
	RMR Residential Mid-Rise Density		MU-UE Mixed-Use - Urban Employment
	C Commercial		MU-I Mixed-Use - Institutional
			IN Industrial



Zion Memorial Park



- C-2 Highway Commercial
- C-M Commercial Manufacturing
- M-1 Light Industrial
- M-2 Heavy Industrial
- R-1 Low Density Residential
- R-1.5 Medium Density Residential
- R-2 High Density Residential



Conclusion

- » The Applicant's impact analyses in the record address a range of potential uses allowed in the Light Industrial zone
- » Sound levels were specifically analyzed to evaluate existing background conditions
- » The record supports a finding that the proposed zone change is appropriate under YCZO 1208.02(C)
- » Any future development will be subject to subsequent site design review under YCZO 1101.02, which address factors such as traffic, noise, visual buffering, etc. and comments from adjacent property owners that may be affected by the proposed use. The County may impose screening, buffering, or noise mitigation measures at this time based on the actual design of the proposed development.

Questions?

Marie Holladay

AKS Engineering & Forestry, LLC

12965 SW Herman Road, Suite 100

Tualatin, OR 97068

HolladayM@aks-eng.com

(503) 563-6151

Alternative Condition Language

- The Applicant requests an adopted condition specifically reference the YCZO and the permitted uses that will be allowed under the LU overlay
- The Applicant proposes the following language to clarify what uses would be allowed under the LU Overlay:
 - A LU overlay district shall limit the permitted uses and activities to those permitted under YCZO 702.02(B) Farm, industrial or contractor's equipment or material manufacture, storage, sales, repair, or services including automobile repair garage, and/or YCZO 702.02(C) Warehousing, wholesale storage distribution, and motor freight terminals contained only within a building.

Megan Marasco

From: Lindsey Manfrin
Sent: Friday, April 22, 2022 9:13 AM
To: Ken Huffer; Mary Starrett
Cc: Christina Ferguson; Terry Malay; Justin Hogue; Christian Boenisch; Megan Marasco; Carolina Rook; Jason Henness; Zoe Pearson
Subject: Board Consideration: Trillium Family Services
Attachments: IIBHT Psychiatrist Supervision Agreement with Yamhill County Family and Youth 041822 rev.pdf

Categories: Upcoming BOC Meeting

Hi Mary and Ken,

Attached is an agreement with Trillium Family Services to provide consultation at a rate of \$275.00 per hour to Yamhill County Health and Human Services Nurse Practitioners providing Intensive In-Home Behavioral Health Treatment services to youth. While this agreement is not specifically included in the Health and Human Services 2021-2022 Adopted Budget, we have sufficient budget authority and funds to support this service.

If approved, this agreement will allow us to utilize consultation time with a Trillium child and adolescent psychiatrist to meet the state requirements for the In-Home Behavioral Health Treatment services to youth we provide through Family and Youth. IIBHT supports youth and families who have complex and intensive behavioral health symptoms, multisystem needs, and/or are at risk of placement disruption. This team-based service is available to youth and families who may benefit from mental health support services provided in the home and in the community, rather than at an in-patient hospital setting.

I recommend the Board approve this agreement as written. Please let me know if you have any questions.

Carolina/Megan, please place this agreement on the next Board Agenda for approval. Suggested Board Agenda language: "Approval of the agreement between Yamhill County and Trillium Family Services, Inc. retroactive to February 1, 2022, through June 30, 2023, at a rate of \$275.00 per hour."

Thank you,

Lindsey Manfrin, DNP, RN
 Health and Human Services Director
 Public Health Administrator
Pronouns: she/her/hers
 Yamhill County Health and Human Services | 638 NE Davis St McMinnville, OR 97128
 Phone: 503-434-7525 | Cell: 971-237-2412 | Ext. 4719
 Fax: 503-474-4907 | manfrin@co.yamhill.or.us
Yamhill County Crisis Line (1-844-842-8200)



*****CONFIDENTIALITY NOTICE*****



YAMHILL COUNTY PERSONAL SERVICES CONTRACT

THIS CONTRACT is entered into by and between YAMHILL COUNTY, OREGON, a political subdivision of the State of Oregon, hereinafter called COUNTY, and TRILLIUM FAMILY SERVICES, INC., hereinafter called CONTRACTOR.

WHEREAS, COUNTY has a need for services of an individual with the particular training, ability, knowledge and experience possessed by CONTRACTOR; and

WHEREAS, The personal services to be provided by CONTRACTOR are exempt from public procurement laws pursuant to Yamhill County Ordinance 761, Section 4; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree as follows:

1. **TERM OF CONTRACT:** This Contract shall become effective on February 1, 2022 and shall terminate on June 30, 2023. Thereafter, it shall be automatically renewed for successive one-year terms beginning July 1, 2023, unless otherwise terminated in accordance with this Contract.
2. **TERMINATION:** Either party may terminate this Contract, in whole or in part, at any time for any reason by giving at least thirty (30) days' written notice. Termination shall not excuse liabilities incurred prior to the termination date.
3. **CONSIDERATION:** As consideration for the performance of all terms and conditions set for in this Contract, COUNTY shall pay CONTRACTOR a rate of \$275.00 per hour, with partial hours being pro-rated in 30 minutes increments (example: 20 minutes of consult would be billed for 30 minutes at \$137.50; 45 minutes of consult would be billed for 60 minutes at \$275.00). COUNTY shall pay CONTRACTOR within 30 days following the date the invoice is received. COUNTY shall make payments only after COUNTY's receipt and approval of (i) CONTRACTOR's detailed monthly invoice (to include the name of the "Nurse Practitioner(s)", "Dates of Service", and "Number of Hours"), and (ii) any additional documentation required by the invoice.
4. **SERVICES TO BE PROVIDED BY CONTRACTOR:** CONTRACTOR agrees to perform the following services to the satisfaction of COUNTY:
 - a. Provide psychiatric consultation on an as-available basis to COUNTY providers delivering Intensive In-Home Behavioral Health Treatment ("IIBHT") services;
 - b. Document and retain consultation notes as required by federal and state licensure boards; and
 - c. Invoice COUNTY monthly for completed psychiatric consultation in accordance with Section 3, Consideration.
5. **OBLIGATIONS OF COUNTY:** COUNTY shall:
 - a. Work in partnership with CONTRACTOR to ensure the success of the program;
 - b. Where applicable, provide meeting space and basic utilities for the provision of in-person consultative services under this Contract at COUNTY's IIBHT locations;
 - c. Provide a stable connection source (wireless or wired if sufficient wireless capabilities are not available) to the Internet supporting remote consultation sessions between CONTRACTOR and IIBHT provider;

- d. Ensure support for troubleshooting Internet connectivity issues up to the point of connecting to the remote meeting session (such as poor connections, blocked ports, etc.);
 - e. Provide CONTRACTOR with written authorization to begin consultation services for the associated Nurse Practitioners; and
 - f. Submit to CONTRACTOR an Enrollment Form, contained in Exhibit A – Enrollment Form (attached hereto), for each Nurse Practitioner to be enrolled in this service.
6. BUSINESS ASSOCIATE AGREEMENT: In accordance with Exhibit B, the terms of this Contract create the relationship of "Covered Entity" and "Business Associate" between COUNTY and CONTRACTOR. HIPAA and the Privacy and Security Rule, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), require "Covered Entities" and "Business Associates" to enter into a Business Associate Agreement to protect certain health information. The Business Associate Agreement between COUNTY (the Covered Entity) and CONTRACTOR (the Business Associate) is set forth in the attached Exhibit B and is incorporated herein by this reference.
7. WARRANTY: COUNTY has relied upon representations by CONTRACTOR regarding its professional ability and training as a material inducement to enter into this Contract. CONTRACTOR represents and warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of CONTRACTOR'S work by COUNTY shall not operate as a waiver or release of such warranty.
8. INDEMNIFICATION: Subject to Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, each party hereby agrees to indemnify, defend, save, and hold harmless the other party, including its officers, employees and agents, from and against all claims, suits, actions, liabilities, damages, losses, or expenses, including attorney fees, arising out of the acts or omissions of the indemnifying party, its officers, agents, or employees performing under this Contract.
9. PROFESSIONAL LIABILITY INSURANCE: CONTRACTOR shall procure, maintain, and at all times throughout the term of this Contract have in effect professional liability insurance in minimum amounts equivalent to the tort claim limits set forth in the Oregon Tort Claims Act, ORS 30.260-30.300. CONTRACTOR shall immediately provide COUNTY with certification of required insurance coverage upon request. The certificate shall provide, by policy endorsement, if necessary, that COUNTY, its officers, employees, agents, and volunteers are additional insureds with respect to CONTRACTOR's services provided under this Contract and that there shall be no cancellation, termination, non-renewal, material change to, potential exhaustion of aggregate limits, or reduction of limits of the required insurance without at least 30 days' written notice from CONTRACTOR or its insurer to COUNTY.
10. WORKERS' COMPENSATION: If CONTRACTOR employs one or more workers as defined in ORS 656.027 and such workers are subject to the provisions of ORS Chapter 656, CONTRACTOR shall maintain currently valid workers' compensation insurance covering all such workers during the entire period of this Contract.
11. COMPLIANCE WITH LAWS: CONTRACTOR shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the provision of goods and/or services under this

Contract, including, without limitation, the provisions of ORS 279B.220 through 279B.235 and the provisions of: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 (Pub L No 101- 336), ORS 659.425, and all amendments of and regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

12. HOURS OF LABOR; COMPLIANCE WITH PAY EQUITY PROVISIONS:

- a. Pursuant to ORS 279B.235(3), the Contractor shall pay the Contractor's employees who perform work under this Contract at least time and a half for all overtime in excess of 40 hours a week, and for work performed on any legal holiday as specified in ORS 279B.020, except for employees who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
- b. Pursuant to ORS 279B.235(1)(b), the Contractor shall comply with the prohibition set forth in ORS 652.220. Such compliance is a material element of this Contract and failure to comply is a breach that entitles the County to terminate the Contract for cause.
- c. Pursuant to ORS 279B.235(1)(c), the Contractor shall not prohibit any of the Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- d. Pursuant to ORS 279B.235(5)(b), the Contractor shall notify, in writing, any person employed by the Contractor under this Contract, either at the time of hire or before work begins on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the Contractor may require the employees to work.

13. GOVERNING LAW; VENUE; ATTORNEY FEES: This Contract shall be governed and construed by the laws of the State of Oregon. Any claim, action, suit or proceeding between CONTRACTOR and COUNTY that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Oregon for Yamhill County. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THIS FORUM IS AN INCONVENIENT FORUM. In the event an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Contract, each party shall be solely responsible for its own attorney's fees, expenses, cost and disbursements for said action, suit, proceeding or appeal. When permitted by the Court, either party may appear telephonically where it is reasonable and convenient to do so.

14. RECORDS MAINTENANCE; ACCESS: CONTRACTOR shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, CONTRACTOR shall maintain any other records pertinent to this Contract in such a manner as to clearly document CONTRACTOR's performance hereunder. CONTRACTOR acknowledges and agrees that COUNTY, the Oregon Secretary of State's Office, the Federal Government and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Contract for the purpose of performing audits and examinations and making transcripts and excerpts. All such fiscal records and pertinent documents shall be retained by

CONTRACTOR for a minimum of six (6) years (except as required longer by law) following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

15. ASSIGNMENT/DELEGATION: Neither party shall assign, subcontract or transfer any interest in or duty under this Contract without the prior written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented.
16. STATUS OF CONTRACTOR: The parties intend that CONTRACTOR, in performing the Services specified in this Contract, shall act as an independent contractor. Although COUNTY reserves the right to (i) determine and modify the delivery of schedule for work and Services to be performed and (ii) evaluate the quality of the completed performance, only CONTRACTOR shall have the control of the work and Services and the manner in which it is performed. CONTRACTOR is not to be considered an agent or employee of the COUNTY and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits COUNTY provides its employees.
17. FOREIGN CONTRACTOR: If CONTRACTOR is not domiciled in or registered to do business in the State of Oregon, CONTRACTOR shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. COUNTY shall withhold final payment under this Contract until CONTRACTOR has met this requirement.
18. TAX CERTIFICATION: The individual signing this Contract on behalf of CONTRACTOR certifies under penalty of perjury both individually and on behalf of CONTRACTOR that he or she is authorized to act on behalf of CONTRACTOR and that CONTRACTOR is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. Further, CONTRACTOR shall continue to comply with Oregon Tax Laws during the term of this Contract. Pursuant to ORS 279B.045, CONTRACTOR's failure to comply with the Oregon Tax Laws is considered a default for which COUNTY may terminate the Contract and seek damages and other relief as available. For purposes of this certification, "Oregon Tax Laws" means those programs listed in ORS 305.380(4).
19. SEVERABILITY: If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.
20. ENTIRE AGREEMENT: This Contract constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
21. COUNTERPARTS: This Contract may be executed in one or more counterparts (including by means of facsimile or electronic mail via portable document format), each of which shall be deemed an original but all of which together will constitute one and the same instrument.

22. SURVIVAL: All rights and obligations shall cease upon termination of this Contract, except for those rights and obligations that by their nature or express terms survive termination of this Contract. Termination shall not prejudice any rights or obligations accrued to the parties prior to termination.

IN WITNESS WHEREOF, Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

TRILLIUM FAMILY SERVICES, INC.

YAMHILL COUNTY



Name: Jamie Vandergon

Name: _____

Title: President

Title: _____

Date: 04/19/2022

Date: _____

APPROVED AS TO FORM:

Yamhill County Counsel

Date: _____

EXHIBIT A: Enrollment Form

Please complete and submit this form for each Nurse Practitioner to participate in this IIBHT Psychiatric Consultation program

First Name: _____ Last Name: _____

Title: _____

Email Address: _____

Telephone: _____

Name/Title of Clinic/Site of Service: _____

Practice Address: _____

Billing Address: _____

Contracted Entity (who is paying): _____

Administrative Support Contact:

First Name: _____ Last Name: _____

Email Address: _____

Telephone: _____

EXHIBIT B
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

RECITALS

- A. The CONTRACTOR may use and disclose Protected Health Information and Electronic Protected Health Information (“EPHI”) in the performance of its obligations under the Agreement; and
- B. County operates a drug and alcohol treatment program subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “Part 2”); if CONTRACTOR is a Qualified Service Organization (QSO) under Part 2 it also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of its obligations under the Agreement; and
- C. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that COUNTY, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”); CONTRACTOR is a Business Associate of COUNTY and desires to provide such assurances with respect to the performance of its obligations under the Agreement pursuant to this Business Associate/Qualified Service Organization Agreement (“BAA”); and
- D. Both COUNTY and CONTRACTOR are committed to compliance with the standards set forth in Part 2, the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, the parties agree as follows:

AGREEMENT. The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution of this BAA. Capitalized terms used, but not otherwise defined in this BAA, shall have the same meaning as those terms in Part 2, the Privacy Rule and Security Rule.

1. SERVICES. Pursuant to the Agreement, CONTRACTOR provides certain services for or on behalf of COUNTY, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. CONTRACTOR may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not otherwise limited or prohibited by this BAA, Part 2, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

(a) CONTRACTOR agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement (as amended by this BAA), and as permitted by Part 2, the Privacy Rule, the Security Rule or as required by Law. Notwithstanding any other language in this BAA, CONTRACTOR acknowledges and agrees that any patient information it receives from COUNTY that is protected by Part 2 regulations is subject to protections that prohibit CONTRACTOR from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

(b) CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement as amended by this BAA, and if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

(c) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information or EPHI by CONTRACTOR in violation of the requirements of the Agreement, as amended by this BAA.

(d) CONTRACTOR agrees to report to COUNTY, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this BAA, of which it becomes aware.

(e) CONTRACTOR agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this BAA, to CONTRACTOR with respect to such information.

(f) CONTRACTOR agrees to provide access, at the request of COUNTY, and in the time and manner designated by COUNTY, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) CONTRACTOR agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR 164.526 at the request of COUNTY or an Individual, and in the time and manner designated by COUNTY.

(h) CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of Protected Health Information and EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, available to COUNTY or to the Secretary, within the time and in the manner designated by COUNTY or the Secretary, for purposes of the Secretary determining COUNTY's compliance with Part 2, the Privacy Rule or Security Rule.

(i) CONTRACTOR agrees to refer requests for disclosures of Protected Health Information and EPHI to the COUNTY for response, except for requests related to conducting the contested case hearing. To the extent CONTRACTOR discloses Protected Health Information or EPHI for purposes not related to conducting the contested case hearing, CONTRACTOR agrees to document such disclosures to the extent such documentation is required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(j) CONTRACTOR agrees to provide to COUNTY or an Individual, in time and manner to be designated by COUNTY, information collected in accordance with Section 2(i) of this BAA, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(k) CONTRACTOR agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the COUNTY.

(l) In the event of Discovery of a Breach of Unsecured Protected Health Information, CONTRACTOR shall:

(i) Notify the COUNTY of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been

accessed, acquired or disclosed during such Breach and any other information as may be reasonably required by the COUNTY necessary for the COUNTY to meet its notification obligations;

(ii) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed as a result of such Breach;

(iii) Where the Breach involves more than 500 individuals, confer with the COUNTY as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local jurisdictions; and,

(iv) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. CONTRACTOR understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the COUNTY. If the Breach was with respect to less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.

(v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the COUNTY shall be made as soon as possible and CONTRACTOR shall confer with the COUNTY as soon as practicable thereafter, but in no event, shall notification to the COUNTY be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the COUNTY.

(vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.

(vii) For purposes of this section, the terms “Unsecured Protected Health Information” and “Breach” shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as “Discovered” in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).

(m) CONTRACTOR shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if CONTRACTOR were a Covered Entity.

(n) CONTRACTOR shall be liable to the COUNTY, and shall indemnify the COUNTY for any and all direct costs incurred by the COUNTY, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of CONTRACTOR’s Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

(a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this BAA, CONTRACTOR may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement and this BAA, provided that such use or disclosure would not violate Part 2, the Privacy Rule or Security Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

(2) COUNTY has determined that disclosures to CONTRACTOR under the Agreement are necessary and appropriate for COUNTY's Treatment, Services, Payment and/or Health Care Operations under Part 2, the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this BAA, except to the extent preempted by Part 2 or the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this BAA, CONTRACTOR may use Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

(2) Except as otherwise limited in this BAA, CONTRACTOR may disclose Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) CONTRACTOR may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) CONTRACTOR may not aggregate or compile COUNTY's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits CONTRACTOR to perform Data Aggregation services. If the Agreement permits CONTRACTOR to provide Data Aggregation services, CONTRACTOR may use Protected Health Information and EPHI to provide the Data Aggregation services requested by COUNTY as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this BAA. If Data Aggregation services are requested by COUNTY, CONTRACTOR is authorized to aggregate COUNTY's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the CONTRACTOR has in its possession through its capacity as a CONTRACTOR to such other Covered Entities provided that the purpose of such aggregation is to provide COUNTY with data analysis relating to the Health Care Operations of COUNTY. Under no circumstances may CONTRACTOR disclose Protected Health Information or EPHI of COUNTY to another Covered Entity absent the express authorization of COUNTY.

4. OBLIGATIONS OF COUNTY.

(a) COUNTY shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of COUNTY in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI. COUNTY may satisfy this obligation by providing CONTRACTOR with COUNTY's most current Notice of Privacy Practices.

(b) COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI.

(c) COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information or EPHI that COUNTY has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY.

(a) COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information or EPHI in any manner that would not be permissible under Part 2, the Privacy Rule or Security Rule if done by COUNTY, except as permitted by Section 3(b) above.

(b) COUNTY may conduct a survey of CONTRACTOR with respect to CONTRACTOR's compliance with the terms of this BAA and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY. CONTRACTOR shall implement any recommendations of COUNTY resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this BAA and applicable law for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY.

6. TERM AND TERMINATION.

(a) Effective Date; Term. This BAA shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This BAA shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the BAA is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this BAA, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this BAA, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this BAA if the party in breach does not cure the breach of the terms of this BAA or end the violation within the time specified;

(2) Immediately terminate the Agreement and this BAA if the party in breach has breached a material term of this BAA and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this BAA are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this BAA, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by CONTRACTOR on behalf of COUNTY. This provision shall apply to Protected Health Information and EPHI that is in the possession of CONTRACTOR or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that CONTRACTOR determines that returning or destroying the Protected Health Information or EPHI is infeasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon COUNTY's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, CONTRACTOR shall extend the protections of this BAA to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS.

(a) Regulatory References. A reference in this BAA to a section in Part 2, the Privacy Rule, or Security Rule, or the HITECH Act means the section in effect as of the effective date of this BAA or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this BAA from time to time as is necessary for COUNTY to comply with the requirements of Part 2, the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this BAA.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this BAA shall survive the termination of the Agreement and this BAA.

(d) Interpretation; Order of Precedence. Any ambiguity in this BAA or the Agreement shall be resolved to permit COUNTY to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this BAA amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this BAA and the Agreement are to be harmonized. In the event of a conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control; provided, however, that this BAA shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this BAA) and Part 2, the Privacy Rule or the Security Rule, the more stringent rule shall apply.

(e) No Third-Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this BAA and are the only parties entitled to enforce its terms. Nothing in this BAA gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this BAA.

(f) Successors and Assigns. The provisions of this BAA and the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

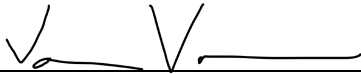
(g) Except As Amended. Except as amended by this BAA, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES.

By signing this BAA, the parties certify that they have read and understood this BAA, that they agree to be bound by the terms of this BAA and the Agreement, as amended, and that they have the authority to sign this BAA.

CONTRACTOR:

COUNTY:

By: 

By: _____

Title: Jamie Vandergon, President

Title: _____

Date: 04/19/2022

Date: _____

Megan Marasco

From: Lindsey Manfrin
Sent: Friday, April 22, 2022 9:15 AM
To: Ken Huffer; Mary Starrett
Cc: Christina Ferguson; Terry Malay; Christian Boenisch; Justin Hogue; Megan Marasco; Carolina Rook; Jason Henness
Subject: Board Consideration: 173153-3 Yamhill County
Attachments: 173153-3 OHA_Grant_Amendment_20220415_171913.pdf
Categories: Upcoming BOC Meeting

Hi Mary and Ken,

Attached is amendment #3 to our agreement with the Oregon Health Authority for the financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services (BO 21-490). The amendment adds \$211,628.76 for the calendar year ending December 31, 2022. While this funding is not included in our Health and Human Services 2021-2022 Adopted Budget, we have sufficient budget authority.

I recommend the Board approve this amendment as written. Please let me know if you have any questions.

Carolina/Megan, please place this amendment on the next Board Agenda for approval. This amendment is being processed through DocuSign. Suggested Board Agenda language: "Approval of amendment #3 to Agreement #173153 (BO 21-490) between Yamhill County and the Oregon Health Authority adding \$211,628.76 retroactive to January 1, 2022 through December 31, 2022."

Thank you,

Lindsey Manfrin, DNP, RN
 Health and Human Services Director
 Public Health Administrator
Pronouns: she/her/hers
 Yamhill County Health and Human Services | 638 NE Davis St McMinnville, OR 97128
 Phone: 503-434-7525 | Cell: 971-237-2412 | Ext. 4719
 Fax: 503-474-4907 | manfrinl@co.yamhill.or.us
Yamhill County Crisis Line (1-844-842-8200)



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**THIRD AMENDMENT TO
OREGON HEALTH AUTHORITY
2022 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF
COMMUNITY MENTAL HEALTH, ADDICTION TREATMENT, RECOVERY, &
PREVENTION, AND PROBLEM GAMBLING SERVICES AGREEMENT #173153**

This Third Amendment to Oregon Health Authority 2022 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services effective as of January 1, 2022 (as amended, the “Agreement”), is entered into, as of the date of the last signature hereto, by and between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and **Yamhill County** (“County”).

RECITALS

WHEREAS, OHA and County wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. The financial and service information in the Financial Assistance Award are hereby amended as described in Attachment 1 attached hereto and incorporated herein by this reference. Attachment 1 must be read in conjunction with the portion of Exhibit C of the Agreement that describes the effect of an amendment of the financial and service information.
2. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
3. County represents and warrants to OHA that the representations and warranties of County set forth in section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
5. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have executed this amendment as of the dates set forth below their respective signatures.

6. Signatures.

Yamhill County

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

State of Oregon acting by and through its Oregon Health Authority

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

Approved by: Director, OHA Health Systems Division

By:

_____	_____	_____	_____
Authorized Signature	Printed Name	Title	Date

Approved for Legal Sufficiency:

Approved by Steven Marlowe, Senior Assistant Attorney General, Department of Justice, Tax and Finance Section, on November 15, 2021; e-mail in contract file.

ATTACHMENT 1

EXHIBIT C

Financial Pages

MODIFICATION INPUT REVIEW REPORT

MOD#: M0640													
CONTRACT#: 173153			CONTRACTOR: YAMHILL COUNTY										
INPUT CHECKED BY: _____		DATE CHECKED: _____											
SE#	FUND	PROJ	CPMS PROVIDER	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP PART DOLLARS ABC	PART IV	PAAF CD	BASE	CLIENT CODE	SP#
CALENDAR YEAR: 2022													
1	804	BASE	SYSTEM MANAGEMENT AN	MHS01	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$3,340.46	\$0.00	A	1	Y	
1	804	BASE	SYSTEM MANAGEMENT AN	MHS01	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$70,542.75	\$0.00	C	1	N	3
TOTAL FOR SE# 1								<u>\$73,883.21</u>	<u>\$0.00</u>				
4	804	BASE	AID & ASSIST	AAP	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$2,281.37	\$0.00	A	1	Y	
TOTAL FOR SE# 4								<u>\$2,281.37</u>	<u>\$0.00</u>				
5	804	BASE	ASSERTIVE COMMUNITY	MHACT	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$1,179.27	\$0.00	A	1	Y	
TOTAL FOR SE# 5								<u>\$1,179.27</u>	<u>\$0.00</u>				
9	804	BASE	NI JAIL DIVERSION	NIJAIL	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$13,017.22	\$0.00	A	1	Y	
TOTAL FOR SE# 9								<u>\$13,017.22</u>	<u>\$0.00</u>				
10	804	BASE	NI MH PROMO AND PREV	NIMXPP	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$4,117.32	\$0.00	A	1	Y	
TOTAL FOR SE# 10								<u>\$4,117.32</u>	<u>\$0.00</u>				
12	804	BASE	RENTAL ASSISTANCE	RNTAST	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$21,516.59	\$0.00	A	1	Y	
TOTAL FOR SE# 12								<u>\$21,516.59</u>	<u>\$0.00</u>				
17	804	BASE	INVOICE SERVICES	INVOIC	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$10,548.33	\$0.00	C	1	Y	2
TOTAL FOR SE# 17								<u>\$10,548.33</u>	<u>\$0.00</u>				
20	401	BASE	NON-RESIDENTIAL MENT	MHNRMH	1/1/2022 - 12/31/2022	0 /NA	\$0.00	-\$165,874.06	\$0.00	A	1	Y	1
20	804	BASE	NON-RESIDENTIAL MENT	MHNRMH	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$105,245.49	\$0.00	A	1	Y	
TOTAL FOR SE# 20								<u>-\$60,628.57</u>	<u>\$0.00</u>				
24	804	BASE	ACUTE AND INTERMEDIA	ACUTE	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$8,369.34	\$0.00	A	1	Y	

MODIFICATION INPUT REVIEW REPORT

MOD#: M0640

CONTRACT#: 173153

CONTRACTOR: YAMHILL COUNTY

INPUT CHECKED BY: _____

DATE CHECKED: _____

SE#	FUND	CODE	CPMS PROVIDER	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP PART DOLLARS ABC	PART IV	PAAF CD	BASE	CLIENT CODE	SP#
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CALENDAR YEAR: 2022

TOTAL FOR SE# 24							\$8,269.94	\$0.00					
25	804	BASE	COMMUNITY CRISIS SER	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$39,720.57	\$0.00	A	1	Y		
TOTAL FOR SE# 25							\$39,720.57	\$0.00					
26	804	BASE	EARLY ASSESSMENT AN	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$4,891.38	\$0.00	A	1	Y		
TOTAL FOR SE# 26							\$4,891.38	\$0.00					
30	804	BASE	PSRB DESIG CLIENT	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$535.64	\$0.00	A	1	Y		
TOTAL FOR SE# 30							\$535.64	\$0.00					
35	804	BASE	GERO SPECIALISTS	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$5,847.15	\$0.00	A	1	Y		
TOTAL FOR SE# 35							\$5,847.15	\$0.00					
38	804	BASE	NI SUPPORTED EMPLOYM	1/1/2022 - 12/31/2022	0 /NA	\$0.00	\$3,412.91	\$0.00	A	1	Y		
TOTAL FOR SE# 38							\$3,412.91	\$0.00					
20	804	BASE	NON-RESIDENTIAL MENT	7/1/2022 - 12/31/2022	0 /NA	\$0.00	\$82,937.03	\$0.00	A	1	Y		
TOTAL FOR SE# 20							\$82,937.03	\$0.00					
TOTAL FOR 2022							\$211,626.76	\$0.00					
TOTAL FOR M0640 173153							\$211,626.76	\$0.00					

OREGON HEALTH AUTHORITY
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: YAMHILL COUNTY
DATE: 04/12/2022

Contract#: 173153
REF#: 004

REASON FOR FAAA (for information only):

This contract amendment is for Administrative adjustment to funding and the adding of inflation dollars.

The following special condition(s) apply to funds as indicated by the special condition number in column 9. Each special condition set forth below may be qualified by a full description in the Financial Assistance Award.

- M0640 1 Special Condition #M0514 in BASE Agreement, regarding "MHS 20 Services" applies.
- M0640 2A) These funds are for MHS 17, which encompasses Invoice Services found in service elements 26,27,28,30,34 and 36 from 01/01/2022 to 12/31/2022 with Part C. B) For Services delivered to individuals, financial assistance awarded to County shall be disbursed to County and expended by County in accordance with and subject to the residential rate on the date of service delivery based upon the rate scheduled found at www.oregon.gov/OHA/HSD/OHP/Pages/Fee-Schedule.aspx and incorporated into this Agreement by reference that is effective as of the effective date of this Agreement unless a new rate schedule is subsequently incorporated by amendment. Any expenditure by County in excess of the authorized rates as set forth www.oregon.gov/OHA/HSD/OHP/Pages/Fee-Schedule.aspx may be deemed unallowable and subject to recovery by OHA in accordance with the terms of this Agreement.
- M0640 3 The financial assistance subject to this special condition will be disbursed to County in one lump sum within 30 calendar days after the date this Agreement becomes executed.

Megan Marasco

From: Lindsey Manfrin
Sent: Friday, April 22, 2022 9:19 AM
To: Ken Huffer; Mary Starrett
Cc: Christina Ferguson; Terry Malay; Christian Boenisch; Justin Hogue; Megan Marasco; Carolina Rook; Bill Michielsen
Subject: Board Consideration: Yamhill Community Care
Attachments: YHHS_LMHA-LPHA First Amendment_FINAL.pdf
Categories: Upcoming BOC Meeting

Hi Mary and Ken,

Attached is amendment 1 to the Local Mental Health Authority, Local Public Health Authority and Coordinated Care Organization Agreement (BO 22-46) between Yamhill County and Yamhill Community Care adding \$24,630.42 retroactive from April 1, 2022 through August 31, 2022. While this funding is not included in our Health and Human Services 2021-2022 Adopted Budget, we have sufficient budget authority.

This funding will support a Family Well-Being Council facilitator. The Family Well-Being Council is a multi-sector group of community members and leaders who work together to develop system improvements and investments in evidence-based and innovative child and family supports and prevention work.

I recommend the Board approve this amendment as written. Please let me know if you have any questions.

Carolina/Megan, please place this amendment on the next Board Agenda for approval. The signed copy will be coming over in a separate email. Suggested Board Agenda language: "Approval of amendment 1 to the Local Mental Health Authority, Local Public Health Authority and Coordinated Care Organization Agreement (BO 22-46) between Yamhill County and Yamhill Community Care for \$24,630.42 retroactive from April 1, 2022 through August 31, 2022."

Thank you,

Lindsey Manfrin, DNP, RN
 Health and Human Services Director
 Public Health Administrator
Pronouns: she/her/hers
 Yamhill County Health and Human Services | 638 NE Davis St McMinnville, OR 97128
 Phone: 503-434-7525 | Cell: 971-237-2412 | Ext. 4719
 Fax: 503-474-4907 | manfrinl@co.yamhill.or.us
Yamhill County Crisis Line (1-844-842-8200)



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**FIRST AMENDMENT TO THE LOCAL MENTAL HEALTH AUTHORITY, LOCAL
PUBLIC HEALTH AUTHORITY COORDINATED CARE ORGANIZATION
AGREEMENT**

This First Amendment to the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement (this “First Amendment”) dated this April 1st, 2022, is entered by and between Yamhill County Care Organization, Inc. dba Yamhill Community Care (“YCCO”) and Yamhill County, acting by and through its Department of Health and Human Services (“County”)

RECITALS:

- A. YCCO and the Agency entered a Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement dated January 1st, 2022.
- B. The purpose of this First Amendment is to amend the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement effective April 1st, 2022, to provide continuity of scope of work and transfer the provision of facilitation of the Family Well-Being Council.
- C. Capitalized terms used in this First Amendment, but not otherwise defined in this First Amendment shall have the same meaning as those in the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement, and the CCO Contract, in that order of priority.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

- 1. Effective Date. The Effective Date of this First Amendment shall be April 1st, 2022.
- 2. Term. The Term of this First Amendment shall be December 31st, 2022.
- 3. Modifications. The original Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement is hereby amended, modified, and supplemented as set forth in this First Amendment and incorporated herein by this reference.
- 4. Ratification. Except as expressly amended in writing and signed by both parties, the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement is hereby ratified and affirmed and shall remain in full force and effect according to its terms.

Attachment F Compensation

Rates below reflect the amounts YCCO is to pay to HHS effective 1/1/2022. These amounts include:

1. CHA/CHIP payment in the amount of \$52,488 for .5 full time equivalent (FTE) Health Educator position that YCHHS will supply as defined in Section N, 10.
2. Community Prevention and Wellness payment in the amount of \$130,020 for 1.0 FTE Community Prevention Wellness position that YCHHS will supply who will be available to perform the services defined in Attachment D.
3. Needle/Syringe Exchange payment in the amount of \$60,815 as defined in Attachment E.

Rates below reflect the amounts YCCO is to pay to HHS effective 4/1/2022 through 8/31/2022. These amounts include:

1. Family Well-Being Council payment via the CPW Fund in the amount of \$24,630.42.

Rates below reflect the amounts HHS is to pay to YCCO effective 1/1/2022. These amounts include:

1. YCHHS will fund three (3) percent of total premium paid in 2021 as a 2022 CPW Fund contribution after the final L reports for calendar year 2021 have been submitted.

Attachment G
Scope of Services
Family Well-Being Council

Program Description: The County will support a Family Well-Being Council facilitator. The Family Well-Being Council works together to develop system improvements and investments in evidence-based child and family prevention work.

The County shall:

1. Complete and submit an expenditure report no later than thirty (30) days following the end of each reporting period.
2. County may be asked to submit record of expenditures, including but not limited to pay stubs, invoices, or receipts no later than thirty (30) days following a request from YCCO.
3. Complete and submit report and documentation of expenses no later than thirty (30) days following the end of each reporting period.
4. Attend meetings, learning sessions, and conferences to share learnings and outcomes with the community, if requested.
5. Implement and report on the following activities to achieve progress toward the goals of the initiative:
 - a. Conduct Family Well-Being Council meetings every other month
 - b. Hold five (5) Project Action Groups monthly
 - c. Hold monthly or ad hoc Data and Resource Committees
 - d. Demonstrate progress toward the following outcomes:
 - i. Reduce founded cases of overall maltreatment by 10%; Reduce founded cases of neglect by 5%
 1. Set baseline data for combined out of county mental health, therapeutic foster care, drug/alcohol treatment and judicial placement.
 2. Increase local services to four components for out of county placements: mental health, therapeutic foster care, drug/alcohol treatment, and judicial.
 - ii. Increase foster care stability rate to 60%
 1. Increase foster parents by 5%
 2. Increase high quality, easy access foster parent training
 3. Increase access to respite for existing Foster Parents by 10%

YCCO shall:

1. Provide technical assistance in reporting.
2. Disburse payment to County of \$24,630.42, upon the following conditions:
 - a. Execution of contract
 - b. Receipt of invoice
 - c. Receipt of reports

- d. YCCO determines satisfactory progress toward performance measures and appropriate use of funds. If activities listed in Exhibit A are not met, or funds are spent inappropriately or significantly change without prior approval, YCCO may recoup some or all funds disbursed.

Reporting YCCO and County will work together to support activities related to the facilitation of the Family Well-Being Council. The County will submit the required formal reporting to YCCO on the due date stated below.

The due date for formal reporting on spending and activities completed are as follows:

- April 1st, 2022 – August 31st, 2022; report due September 30th, 2022

Use of funds. The County agree that this Amendment does not imply or guarantee ongoing funding, and funding will cease after all payments have been made or the Amendment is terminated. No funds can be used for political purposes, lobbying, or to any non-charitable purposes within the meaning of Chapter 65 of Oregon Administrative Rules regarding 501(c)3 corporations.

IN WITNESS, WHEREOF, the parties hereto have executed this Agreement as of the Execution Date set forth below.

**YAMHILL COUNTY
BOARD OF COMMISSIONERS**

Yamhill County Care Organization, Inc.

Chair, LINDSAY BERSCHAUER

Seamus McCarthy
Chief Executive Officer
807 NE Third Street
McMinnville, OR 97128

Commissioner, MARY STARRETT

Date: _____

Commissioner, CASEY KULLA

Date: _____

RECOMMENDED BY:

Lindsey Manfrin, Director HHS

APPROVED AS TO FORM:

Yamhill County Legal Counsel

Date: _____

Megan Marasco

From: Cynthia Thompson
Sent: Friday, April 22, 2022 12:35 PM
To: Carolina Rook; Megan Marasco
Cc: Ken Huffer; Justin Hogue; Christian Boenisch; Tonya Manley; Casey Kulla
Subject: Transit Board Agenda Item 4-28-22
Attachments: 4-22-22 Board Memo- 5339 Grant App.docx

Categories: Upcoming BOC Meeting

Carolina,
Attached is the board memo for the Board agenda for next week.
I will forward the sample grant applications but I can't send until Monday morning.
Please let me know if this is a problem or if you need anything else.
I include YCT Board of Directors and BOC- but you can ask Ken if it is necessary or if just BOC can approve the application. Once we actually get the grant it could go to both but maybe the application process itself could just be approved by BOC to save you time and trouble.

Cynthia

Cynthia Thompson
Transit Manager
Yamhill County Transit Area
535 NE Fifth Street
McMinnville, OR 97128
503-474-4910
thompsonc@co.yamhill.or.us

Alternate Contact
BCB LLC Believe Create Build
503-995-7965 (cell)
cynthia@bcbconsulting.net

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TO: Yamhill County Board of Commissioners

FROM: Cynthia Thompson, Transit Manager

Cc: Ken Huffer, Christian Boenisch, Carolina Rook, Megan Marasco, Tonya Manley, Casey Kulla

DATE: April 22, 2022

Re: Board Action Items for Yamhill County Transit

**Yamhill County Transit Action Items
Board of Commissioners and YCT Board of Directors
Date: BOC Formal Session April 28, 2022**

#1 Project Description

Approve the ODOT Rail and Public Transit Division 5339 Bus and Bus Facilities grant applications for seven (7) replacement buses \$1,050,000 and Facility Design and Engineering for \$1,000,000.

1 Board Action Requested:

Approve the submittal of two 5339 federal grant applications to ODOT/FTA for bus and bus facilities for a total of \$2,050,000. Authorize County Administrator to sign the grant applications for submittal. Approval may be based on recommendation by YCTAC.

1 Background Info:

These grant proposals will be presented to YCTAC on April 28, 2022, at 3:00 pm for recommendation to the YCT Board of Directors and Board of Commissioners. Unfortunately, YCTAC meets after BOC so you may make this approval based on recommendation by YCTAC if preferred.

As a rural system, YCT is required to submit an intent to apply with a cost estimate of the request. YCT submitted this to ODOT on April 1, 2022.

YCT's grant applications are as follows.

1. Replace seven (7) YCT vehicles \$1,050,000. (Minivans and mid-size buses)
2. Request funding for design and engineering for a new admin/ops/maintenance facility \$1,000,000



The supply chain issue is creating uncertainty in the bus manufacturing industry. The research regarding cost estimates for buses is alarming. YCT is proposing using more minivans for ADA paratransit and Dial a Ride so this application will be for 4 mini-vans and 3 mid-size low floor buses. This could change by the time this grant is approved and a grant agreement is in place. There is a strong push for agencies to purchase zero emission vehicles which is in line with YCT Transit Development Plan goals. Yet, there is a new requirement that a zero-emission plan be in place. YCT has a Fleet Transition plan in the works, but it is not complete so therefore YCT can not apply for the Lo-No funding in this round.

It may seem pre-mature to seek funding for a facility, yet I am recommending we get this project in the queue while the funding opportunities are available. It will be a large expensive project and by the time this grant is approved, and an agreement is in place I think we will have the information necessary to obligate the funds. If not, we can decline the grant and wait for a future opportunity. It is important for ODOT and FTA to be aware of the need for a facility for YCT.

The local match required for buses is \$15%
The local match required for facilities is 10%

The match funds will be paid for using STIF and YCT's portion of County general fund

Below is a copy of the Notice of Funding Opportunity for more detailed information about the funding program, requirements, timeline, match etc.

Notice of FTA National Competitive Funding Opportunity

The Federal Transit Administration (FTA) issued a FY22 [Notice of Funding Opportunity](#) on Friday (03/04) for both the national competitive Low and No-Emission Vehicle program FTA Section 5339 (c) and the national competitive Bus and Bus Facilities opportunity FTA Section 5339 (b).

Agencies that are designated direct FTA recipients can apply to the FTA on their own behalf. ODOT will apply on behalf of eligible rural transit agencies.

These programs support FTA's priorities and objectives through investments that (1) renew our transit systems; (2) reduce greenhouse gas emissions from public transportation, (3) advance racial equity, (4) maintain and create good-paying jobs with a free and fair choice to join a union, and (5) connect communities. These programs also support the President's Building a Better America initiative to mobilize American ingenuity to build a modern infrastructure and an equitable, clean energy future. In addition, this NOFO will advance the goals of the President's January 20, 2021, Executive Order 14008, Tackling the Climate Crisis at Home and Abroad and Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Eligible recipients: 5339(b) - designated recipients that allocate funds to fixed route bus operators, States or local governmental entities that operate fixed route bus service, and Indian tribes. Eligible subrecipients include all otherwise eligible applicants and private nonprofit organizations engaged in public transportation.



5339(c) - designated recipients, States, local governmental authorities, and Indian tribes. State may submit consolidated State proposal for projects in rural areas.

Except for projects proposed by Indian tribes, all proposals for projects in rural (non-urbanized) areas must be submitted by a State, either individually or as a part of a statewide application.

Eligible projects: 5339(b) - capital projects to replace, rehabilitate, purchase, or lease buses, vans, or related equipment; or to rehabilitate, purchase, construct, or lease bus-related facilities regardless of propulsion type or emissions.

5339(c) - (1) Purchasing or leasing low or no emission buses; (2) acquiring low or no emission buses with a leased power source; (3) constructing or leasing facilities and related equipment for low or no emission buses; (4) constructing new public transportation facilities to accommodate low or no emission buses; or (5) rehabilitating or improving existing public transportation facilities to accommodate low or no emission buses. 5 percent of the requested Federal award must be used for workforce development to retrain the existing workforce, unless the applicant certifies via the application that less funding is needed to carry out the workforce development element of their fleet transition plan.

Additional Information and Requirements:

For applications related to zero-emission vehicles under either the Low-No or Buses and Bus Facilities programs, applicants are required by law (49 U.S.C. 5339(c)(3)(D)) to submit a Zero-Emission Fleet Transition Plan. This plan must be a separate document from other local or regional planning documents and must: (1) Demonstrate a long-term fleet management plan with a strategy for how the applicant intends to use the current application and future acquisitions; (2) address the availability of current and future resources to meet costs for the transition and implementation; (3) consider policy and legislation impacting relevant technologies; (4) include an evaluation of existing and future facilities and their relationship to the technology transition; (5) describe the partnership of the applicant with the utility or alternative fuel provider; and (6) examine the impact of the transition on the applicant's current workforce by identifying skill gaps, training needs, and retraining needs of the existing workers of the applicant to operate and maintain zero emission vehicles and related infrastructure and avoid the displacement of the existing workforce.

Match Rates:

For vehicle purchases, maximum federal share is 85%.

For vehicle-related equipment or facilities maximum federal share is 90%.

For all other projects, maximum federal share is 80%.

Deadlines:

If you intend to apply through ODOT PTD notify PTDApplications@odot.state.or.us with an email by **April 1, 2022, COB**. Include: agency, the fixed grant amount you are requesting, number and type of vehicle, replacement or expansion, fuel type, cost for each vehicle, project description and any costs for any project other than a vehicle. This allows PTD to obtain state approval to apply on behalf of sub recipients.

To complete your application through ODOT PTD, you must next complete and submit the [Supplemental Form application](#) to PTDApplications@odot.oregon.gov by **April 30, 2022**. For recipients applying directly to FTA, the deadline is **May 31, 2022**.

Megan Marasco

From: Lindsey Manfrin
Sent: Friday, April 22, 2022 3:28 PM
To: Ken Huffer; Mary Starrett
Cc: Christina Ferguson; Terry Malay; Justin Hogue; Megan Marasco; Carolina Rook; Jason Henness
Subject: Board Consideration: Permission to Apply Workforce Stability Grant
Attachments: HB 4004 RFA 4-15-2022_SA Signed.pdf

Hi Mary and Ken,

I would like permission to apply for HB 4004 (2022 Regular Session) Workforce Stability Grant administered by the Oregon Health Authority (OHA). While recruitment and retention challenges are not unique to Yamhill County HHS, they are significant. Now more than ever we are seeing a need for behavioral health services, supports and prevention efforts. This opportunity will allow us to provide retention incentives to existing staff and recruitment bonuses in hopes of filling existing vacancies for positions that are critical to the health and safety of our community. The funding formula will be determined by the state based on our total staffing costs (gross pay), including benefits, for one month for eligible staff.

Our goal in writing for the increased funds is to increase compensation to our behavioral health staff through hiring and retention bonuses if necessary, to recruit new staff or retain existing staff. While the total amount is not included in our HHS 2021-2022 budget, we anticipate we will have sufficient additional state grant expense authority to receive the funds if awarded.

If our grant application(s) are successful, I will return to the Board to request approval for the actual amount awarded. Please let me know if you have any questions.

Carolina/Keri, please place this request on the next Board Agenda for approval. Suggested Board Agenda language:

"Authorize Yamhill County Health and Human Services to submit application(s) for HB4004 Workforce Stability Grant funds administered by the Oregon Health Authority."

Thanks,

Lindsey Manfrin, DNP, RN

Health and Human Services Director
 Public Health Administrator

Pronouns: she/her/hers

Yamhill County Health and Human Services | 638 NE Davis St McMinnville, OR 97128

Phone: 503-434-7525 | Cell: 971-237-2412 | Ext. 4719

Fax: 503-474-4907 | manfrinl@co.yamhill.or.us

Yamhill County Crisis Line (1-844-842-8200)



*****CONFIDENTIALITY NOTICE*****



HEALTH SYSTEMS DIVISION

Kate Brown, Governor



April 15, 2022

To: All Behavioral Health Providers

From: Steve Allen, Behavioral Health Director

500 Summer Street NE, E-86

Salem, OR 97301-1118

Voice: 503-945-5763

Fax: 503-378-8467

TTY: 800-375-2863

www.oregon.gov/OHA/hsd/amh

HB 4004 (2022 Regular Session) Workforce Stability Grant

Purpose

Oregon is in a behavioral health care workforce crisis. Challenges in delivering services in the high-risk COVID environment and the increasing need for behavioral health care have discouraged qualified individuals from seeking employment with providers serving Oregon's community members who are most vulnerable and impacted by health inequities and injustices. Workforce shortages directly impact the ability of behavioral health care providers to maintain full capacity which, in turn, reduces provider revenues and ability to meet payroll obligations.

Given the urgency of the crisis, House Bill 4004 authorizes the Oregon Health Authority to distribute grant funds to behavioral health care providers to increase compensation to the providers' staff and pay hiring and retention bonuses if necessary, to recruit new staff or retain the providers' staff. Applicants must use at least 75% of the grant for direct compensation to staff in the form of wages, benefits, and bonuses, with the remainder (if any) spent on non-compensatory means to increase workforce retention or recruitment. To facilitate administration of the HB 4004 grant program, including the OHA reporting requirements described in this application, applicants will be required to expend all grant funds for authorized purposes by not later than December 1, 2023.

Applications will be accepted from the following providers:

- Mental health or substance use disorder crisis line providers; or
- Urban Indian Health Programs in Oregon; or
- Tribal Behavioral Health Program grant recipients in Oregon; or
- Behavioral health care providers (services and supports for individuals with mental health or substance use disorders) that meet the following criteria:
 - Serve adults or youth, at least 50% of whom are uninsured, enrolled in the state medical assistance program (Medicaid), or enrolled in Medicare
 - Are not hospitals; and
 - Qualify as one or more of the following:
 - Certified by Oregon Health Authority to provide behavioral health care
 - Provides behavioral health care through program contracting with or administered by the Oregon Youth Authority
 - Provides behavioral health rehabilitation services through a program contracting with or administered by the Department of Human Services
 - Licensed opioid treatment program

If you need this letter in an alternate format, please call 503-945-5763 (Voice) or 800-375-2863 (TTY)
An Equal Opportunity Employer

- Provides withdrawal management services; or
- Is a sobering center.

To receive funds for retention and recruitment applicants must provide the following information utilizing the link by May 4th at 5 pm (PST). The information necessary to complete the application is as follows:

- Attestation by an authorized representative that: (1) the applicant is an eligible applicant and the basis for such eligibility; (2) the applicant has reviewed, understands, and acknowledges the terms and conditions of receiving grant funds under HB 4004 as described in this application and the applicant agrees to comply with all terms and conditions; and (3) all information provided to OHA in connection with this application is true and correct, and the applicant agrees to notify OHA immediately in writing if the applicant becomes aware that any such information is inaccurate or incomplete.
- Total staffing costs (gross pay) for Oregon operations, including benefits, for one month. (Please do not include independent contractors who are not employees, such as consultants or contract nurse/providers).
- Include filled and vacant positions, including but not limited to the staffing categories below.
 - Executive Management
 - Physicians/Psychiatrists
 - Management (program managers, supervisors, leads)
 - Clinical/Medical staff
 - Non-clinical staff (including peers, billing, maintenance, environmental services, administrative support)
- Use the most recent month within Q1 2022 that has available data. Please specify the month for which data is being submitted.
- A description of any programs or other non-compensatory means to increase workforce retention or recruitment that the provider proposes to support with the grant and how such programs or other non-compensatory means are designed to increase workforce retention or recruitment.
- Providers receiving grant funds are encouraged by OHA to develop and set in motion innovative recruitment and retention strategies that serve to increase staff diversity and cultural responsiveness and expedite filling open positions. A one-page summary of the provider's recruitment and retention strategies will be required as part of the Interim Incentive Distribution Report due on August 1, 2022.

Any portion of a grant that is not spent as provided in this application and in Section 1 of HB 4004, which is incorporated into this application, constitutes an overpayment that OHA may recover from a provider.

Please provide notification to OHA of any unspent funds by December 15, 2022.

Two reports (an Interim Incentive Distribution Report and Final Report) must be submitted.

Interim Incentive Distribution Report due August 1, 2022.

Information required:

Specific amounts provided as of July 31, 2022, to each category of staff listed below for recruitment and retention bonuses.

Executive Leadership

Physician/Psychiatrist

Management (program managers, supervisors, leads)

Clinical/Medical staff

Non-clinical staff

Number of vacant positions filled

Recruitment Strategy

Please provide a one-page summary of direct compensation to the provider's staff and programs or other non-compensatory means to increase workforce retention or recruitment that the grant has supported, and how those efforts impacted workforce retention or recruitment. If grant funds have not been fully expended, please include a summary of plans to expend additional grant funds between August 1, 2022, and December 1, 2022.

Final report due December 30, 2022

Information required:

Number of unfilled positions as of April 1, 2022 (submitted on RFA)

Number of unfilled positions as of December 30, 2022

A final report accounting for all expenditures of grant funds, including the amount of grant funds expended on direct compensation to provider's staff and the amount of grant funds expended on other programs or other non-compensatory means to increase workforce retention and recruitment.

Please share your perspective on the degree to which this incentive

- Helped provider retain staff
- Helped provider recruit new staff
- Contributed to an overall sense of well-being and a supportive work environment for provider staff

Rating Scale:

- 1- No Impact
- 2- Mixed results, minimal impact overall
- 3- Mixed result, positive impact overall
- 4- Significant positive impact

Additional narrative to outline your organization's experience with specific examples of how this incentive:

- 1) Based on your answer above, please explain with specific examples how this incentive:**
 - **Helped provider to retain staff**
 - **Helped provider to recruit new staff**
 - **Contributed to the overall sense of well-being and a supportive work environment for provider staff**
 - ***Please limit to 500 words***

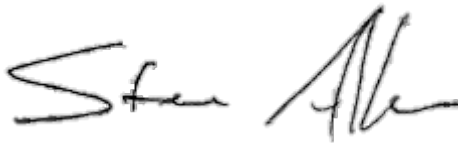
- 2) From a consumer perspective, please share specific examples of how this incentive did or did not enhance member experience (access, care coordination, engagement, etc.)**
Please limit to 250 words

Application Link: [HB 4004 Workforce Stability Grant Application](#)

OHA will supply a report template for all reports due to OHA associated with the funds awarded.

For questions, please contact Greg Bledsoe at gregory.b.bledsoe@dhsoha.state.or.us or you may contact Greg directly at 503-975-2025

Sincerely,

A handwritten signature in black ink that reads "Steve Allen". The signature is written in a cursive, flowing style.

Steve Allen
Health Systems Division
Oregon Health Authority
503-449-7643



Yamhill County Department of Community Justice

615 E. Sixth Street, McMinnville, Oregon 97128 · Phone: 503-434-7513 · Fax: 503-472-5216

Date: 4/26/2022

To: Yamhill County Board of Commissioners

From: Jessica Beach, Yamhill County Department of Community Justice (YCDCJ) Director

Re: Contract Employment Agreement for Special Administrative Services between Yamhill County and Vicki Wood

After over 30 years of service to Yamhill County with YCDCJ, Vicki has provided notice of her retirement as of 4/30/22 as the YCDCJ Business Manager. We do have a recruit to fill the vacant Business Manager position who will start employment with Yamhill County on 5/9/22. Vicki has kindly agreed to remain on contract working part-time during this transition and to assist with the budgeting process through the next fiscal year at the hourly cost of \$50.00. This expenditure is currently available in the 2021-22 approved YCDCJ budget as well as the proposed, pending 2022-23 budget. If approved, this contract would go into effect on 5/3/22 with an automatic renewal clause from year to year after 2023.

Thank you for consideration of this request and please let me know if there are questions.

CONTRACT EMPLOYMENT AGREEMENT
Vicki L. Wood
(Special Administrative Services)

THIS AGREEMENT ("Agreement") is between Yamhill County, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners ("County"), and Vicki L. Wood, an individual, [REDACTED] ("Wood"), effective May 3, 2022.

RECITALS:

- A. County receives administrative services for the Yamhill County Department of Community Justice ("YCDCJ"). In order to provide adequate services, it is necessary for County to contract with a qualified person with significant knowledge in the business management of the YCDCJ.
- B. Wood is qualified to perform the duties required by County and imposed by this Agreement. County and Wood desire to enter into this Agreement and County is authorized to enter into this Agreement under ORS 203.010(3). NOW, THEREFORE

AGREEMENT:

In exchange for the promises and other consideration as set forth below, the receipt and sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

- 1. SERVICES OF WOOD. As mutually agreed between Wood and County, Wood agrees to undertake special administrative services for the County. Special administrative services are those services provided to YCDCJ and are limited to assignments given by the YCDCJ Director or Board of Commissioners and accepted by Wood.

Wood agrees to be available to consult with the YCDCJ Director regarding special administrative services as requested and provide the County with a twice monthly timesheet with days and hours in which services were provided. Wood agrees not to work more than 40-hours in any week without the prior written approval of YCDCJ Director.

Wood also agrees to provide YCDCJ Director with adequate notice in any instance when Wood will be completely unavailable, temporarily unavailable, or will need to change service schedule.

2. OBLIGATIONS OF COUNTY. The County agrees to perform the following obligations:

- (a) Provide Wood with pertinent records for Wood's performance under this Agreement, provided that Wood shall be subject to the rules and regulations of County relating to the confidentiality of records.
- (b) Pay Wood for the services provided under this Agreement at the hourly rate of \$50.00 per hour.
- (c) Make payment to Wood as part of the County's payroll, following receipt and approval of a twice monthly timesheet with days and hours in which services were provided.
- (d) Pay its proportionate share of social security insurance and Medicare taxes for services performed under this Agreement and to withhold and pay to the Internal Revenue Service Wood's proportionate share of social security and Medicare taxes due for services performed under this Agreement. For purposes of these taxes, Wood shall be treated as an employee of County.
- (e) Withhold state and federal income taxes from the monthly payment owed Wood and to pay the Internal Revenue Service and the Oregon Department of Revenue all such sums withheld on behalf of Wood.
- (f) Provide, at County's expense, worker's compensation insurance for Wood's performance of Services under this Agreement.
- (g) Provide, at County's expense, liability insurance coverage for claims connected to performance of Wood's duties under this Agreement, subject to the provisions of the Oregon Tort Claims Act.

3. MUTUAL OBLIGATIONS.

County and Wood mutually agree as follows:

- (a) County and Wood agree to comply with the rules and regulations of County, applicable federal regulations and all provisions of federal and state law relating to Wood's performance of services under this Agreement. County and Wood shall each comply fully with the public contracting provisions of ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530 to the extent those provisions apply. The requirements of ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530 and Article XI, Section 10, of the Oregon Constitution are incorporated into this Agreement by reference.
- (b) A contract employee/employer relationship is created by this Agreement. The only compensation due Wood is specifically stated in this Agreement. Specifically, both parties agree that Wood will not be entitled to any benefits typically granted to County employees, including but not limited to vacation, holiday or sick leave, other leaves with pay, tenure, health and

welfare coverage, life and disability insurance, overtime, retirement benefits, or to any other benefits not specifically referred to above, except as required by law.

- (c) Any expenses incurred by Wood in the performance of the terms and conditions of this Agreement not specifically provided for in this Agreement shall be the sole and separate responsibility of Wood.
 - (d) Wood will provide services to County clients without regard for race, color, creed, religion or national origin in compliance with Title IV, Civil Rights Act, 1964.
 - (e) County may subcontract for similar services with other parties as the need for such services arises. Wood may perform similar services for other organizations.
 - (f) This Agreement shall not be subcontracted or assigned by Wood without the prior written consent of County.
 - (g) This Agreement supersedes and replaces any prior employment agreement between the parties whether written or oral.
 - (h) That this Agreement does not prohibit County from entering into other agreements for the same or similar services.
4. ADMINISTRATION AND PROFESSIONAL SUPERVISION. Wood will be subject to the general administrative supervision of the DCJ Director or designee.
5. TERM AND TERMINATION. Unless terminated in accordance with this section, the term of this Agreement is May 3, 2022 to May 2, 2023. Upon conclusion of the initial term of this Agreement, this Agreement will automatically be renewed on a year-by-year basis, under the same terms and conditions as set forth herein, unless terminated as allowed by this section. It is understood by both parties that no commitments have been or are made by either party beyond the termination of the agreement. Either party may terminate this Agreement on 15 days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date.
6. PERS: WAIVER OF COUNTY LIABILITY. As a PERS retiree, Wood acknowledges and agrees that it is Wood's sole responsibility to comply with all terms and conditions applicable to Wood's receipt of PERS pension benefits, including but not limited to any limitation on the number of hours Wood may work for County (or other qualifying employers) in a calendar year without risking loss or reduction of PERS pension benefits. County bears no responsibility to monitor or ensure Wood's compliance with such PERS requirements and Wood hereby voluntarily waives any and all liability of County for Wood's failure to adhere to applicable PERS requirements during or after the term of this Agreement. If Wood has questions regarding compliance with PERS requirements, Wood shall direct all such questions to PERS.

7. **COST AND ATTORNEYS' FEES.** In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement each party shall be wholly responsible for its own expenses which it may reasonably incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action.
8. **CONFIDENTIALITY.** Wood acknowledges that Wood may, in the course of her performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County's clients. Any and all (i) client information, (ii) information provided by County and marked confidential, (iii) Protected Health Information or EPHI as described or defined in Exhibit A, or (iv) information identified as confidential in a separate writing, that becomes available to Wood in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items, including software, that result from Wood's use of the Confidential Information are also deemed Confidential Information. Wood agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Wood uses in maintaining the confidentiality of Wood's own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit A. Wood agrees that, upon termination of this Agreement or at County's request, Wood will return to County all documents, papers and other matter in Wood's possession that embody Confidential Information and Wood will certify that all such Confidential Information has either been returned or destroyed.
9. **WAIVER; SEVERABILITY.** The failure of County to enforce any provision of this Agreement shall not constitute a waiver by County of that or any other provision. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
10. **ENTIRE AGREEMENT. ALTERATIONS:** This Agreement is the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party, that are not contained in this written Agreement shall be valid or binding. No alterations, changes, or additions to this Agreement shall be made except in a written document signed by both parties.
11. **GOVERNING LAW; JURISDICTION; VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding, (collectively "Claim") between County and Wood that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. WOOD, BY

EXECUTION OF THIS AGREEMENT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth adjacent to their signatures below, and this Agreement is effective as of the date set forth herein.

YAMHILL COUNTY

Vicki L. Wood
VICKI L. WOOD

Date: 4-26-22

SS#: on file

By: _____
LINDSAY BERSCHAUER, Chair
Board of Commissioners
Date: _____

APPROVED AS TO FORM

By: _____
CHRISTIAN BOENISCH, County Counsel
Yamhill County
Date: _____