

## Notice to Parties of Record

**Project Name: Pioneer Industrial Zone**

**Case Number: OLR-2020-00059**

The attached decision of the Land Use Hearing Examiner is final unless a motion for reconsideration is filed or an appeal is filed with Superior Court.

See the *Appeals* handout for more information and fees.

### **Motion for Reconsideration:**

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A **party of record** includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Clark County Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects the rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing the motion for reconsideration.

Mailed on: August 6, 2020

DS1333

Revised 7/15/13



Community Development  
1300 Franklin Street, Vancouver, Washington  
Phone: (360) 397-2375 Fax: (360) 397-2011  
[www.clark.wa.gov/development](http://www.clark.wa.gov/development)



For an alternate format,  
contact the Clark County  
ADA Compliance Office.  
Phone: (360)397-2322  
Relay: 711 or (800) 833-6384  
E-mail: [ADA@clark.wa.gov](mailto:ADA@clark.wa.gov)

**BEFORE THE LAND USE HEARING EXAMINER  
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Pioneer Industrial, )	<b><u>FINAL ORDER</u></b>
LLC to rezone a 2.69-acre parcel located )	
at 7511 NE 101 <sup>st</sup> Street from IL to IR )	<b>OLR-2020-00059</b>
in unincorporated Clark County, Washington )	<b>(Pioneer Industrial Rezone)</b>

**A. SUMMARY**

1. Pioneer Industrial, LLC (the “applicant”) requests approval of a zone change from IL (Light Industrial) to IR (Railroad Industrial) for a roughly 2.69-acre site located at 7511 NE 101<sup>st</sup> Street; also known as tax assessor parcel 119480-000 (the “site”). The site is improved with an existing residence, which will be removed pursuant to demolition permit DEM-2019-00247. The site is located at the east end of NE 101<sup>st</sup> Street, sharing a property boundary with the Chelatchie Prairie Railroad approximately 250 feet along its southeasterly property line.

2. The site is located in an industrial area, with newer industrial development to the north and existing industrial uses to the south and east. County GIS systems identify wetlands in the northeast corner of the site, but no priority habitat or species areas, slope stability issues or geological hazards. The site is served by Fire District #5, the Clark Regional Wastewater District for public sewer, the City of Vancouver for potable water service.

3. The site and all surrounding properties are designated "Industrial" on the County's Comprehensive Plan and currently zoned IL. The existing IL zoning and the proposed IR zoning are both consistent with the Industrial designation. If the rezone is approved the site can be developed with certain additional uses allowed in the IR zone, in addition to the light industrial uses permitted in the existing IL zone.

4. The County issued a Determination of Nonsignificance ("DNS") for the application pursuant to the State Environmental Policy Act ("SEPA"). Hearing Examiner Joe Turner (the "examiner") conducted a public hearing regarding the application. County staff recommended that the examiner deny the application. See the Development and Environmental Review Staff Report and Recommendation to the Hearings Examiner dated June 23, 2020 (the "Staff Report"). Two persons testified orally on behalf of the applicant. Two other persons testified in writing in support of the application (Exhibits 17, 18, 23, and 28. Disputed issues or concerns in the case include the following:

a. Whether the requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district, CCC 40.560.020.F.2;

b. Whether the proposed IR zoning designation better implements applicable comprehensive plan policies than the current IL map designation; CCC 40.560.020.F.3; and

c. Whether there are adequate public facilities and services to serve the requested zone change. CCC 40.560.020.F.4.

5. Based on the findings provided or incorporated herein, the examiner finds that the applicant failed to demonstrate that the zone change will “better implement[] applicable comprehensive plan policies than the current map designation.” CCC 40.560.020.F.3. Therefore, the examiner denies the proposed rezone request.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at the online public hearing about the application on June 25, 2020. That testimony and evidence, including a video recording of the public hearing and the casefile maintained by the Department of Community Development (“DCD”), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Amy Wooten summarized the Staff Report.

a. She noted that the site has roughly 250 feet of frontage on the Chelatchie Prairie Railroad. There are two vacant residential zoned properties roughly 400 feet east of the site. There existing residential uses roughly 750 feet east of the site.

b. She opined that the proposed rezone does not meet approval criteria 2, 3 and 4 and should be denied.

i. The proposed IR zoning does not better implement the applicable comprehensive plan policies. The existing IL zoning is more appropriate, due to the site’s proximity to residentially zoned properties. Several uses are allowed in the IR zone and in the IH (Heavy Industrial) zone that are not allowed in the IL zone. These Heavy Industrial uses are not compatible with nearby residential zoning. Therefore, the rezone should be denied. The applicant can utilize the railroad under the existing IL zone.

ii. The proposed rezone is a “spot zone,” as the site would be the only IR zoned property in the area; the site would be an island of IR zoning surrounded by IL zoned properties. There is no transition in uses. It is County policy to not allow spot zoning in the middle of another zoning district.

iii. Comprehensive plan policies 3.8.1 and 3.8.2, cited in the application, are inapplicable, as the site is not located in the rural area.

c. She questioned whether the site has sufficient frontage to accommodate a rail spur that would allow railroad access to the site. The applicant should be required to submit plan drawn by a professional engineer demonstrating the feasibility of railroad access. The County may not allow use of the existing siding for loading/unloading activities.

d. She noted that the public notice sign was not posted on the site until June 12, 2020, and the Staff Report was issued three days prior to the hearing. Therefore, she requested the examiner hold the record open for an additional 18 calendar days after the hearing to ensure that the public has adequate opportunity to comment on the application.

3. County land use manager Susan Ellinger noted that the term “freight rail dependent uses” used in comprehensive plan policies 3.8.1, 3.8.2, and 3.8.3 is an overlay zone, that does not apply to the site. Therefore, these policies are inapplicable for that reason as well as the fact that policies 3.8.1 and 3.8.2 only apply to properties in the rural area. She noted that the applicant can use the railroad to serve uses on the site even without the proposed zone change.

4. Attorney LeAnne Bremer and engineer Andrew Gunther testified on behalf of the applicant, Pioneer Industrial, LLC.

a. Ms. Bremer agreed with the County’s request to hold the record open for 18 calendar days.

i. She argued that the application complies with the four approval criteria for a zone change.

(A) County staff agree that the proposed IR zoning is consistent with the I (Industrial) comprehensive plan designation for the site. Both the existing IL and the proposed IR zoning implement this designation.

(B) The proposed IR zoning is consistent with the comprehensive plan policies and the purpose of the IR zone:

(I) The zone change will provide for those industrial uses that are most suited for and can take advantage of locations along the county’s rail line.

(II) The proposed zone change is consistent with Policy 3.8.3, as it will allow “freight rail dependent uses” on the site, adjacent to the railroad. Contrary to staff’s assertion, “freight rail dependent uses” is not an overlay zone. CCC 40.250 lists all of the overlay zones and “freight rail dependent uses” is not included in that list. There is a “railroad overlay district,” which was developed for the Anderson Dairy property located northeast of the site. However, there are no existing Code sections addressing “freight rail dependent uses.” Therefore, the phrase “freight rail dependent uses” should apply to any industrial designated lands.

(III) The rezone is also consistent with Policy 9.6.2, as it will allow uses on the site that promote the long-term economic viability of the county railroad.

(IV) She agreed that policies 3.8.1 and 3.8.2 are inapplicable, as they only apply to rural lands.

(C) The proposed IR zoning better implements the identified comprehensive plan policies than the existing IL zoning. There are few properties in the County that can be zoned IR; only those properties adjacent to the railroad line. The proposed rezone will expand the uses allowed on the site, which will support the County's industrial goals as well as supporting the County owned rail line, furthering comprehensive plan policy 5.4.5, improve the mobility and access on the railroad.

(D) Adequate public facilities are available to serve the site. Although there is no existing rail spur on the site, the site is large enough to accommodate a rail spur extending from the existing rail line.

ii. The applicant is requesting the rezone to allow the opportunity to develop the site with railroad dependent uses. Ninety percent of the uses allowed in the IL and IR zones are identical. The rezone will allow the opportunity to include other manufacturing uses that are only permitted in the IR zone in order to maximize use of the railroad. If this site - designated Industrial, surrounded by other Industrial designated land, and abutting the railroad - is not appropriate for IR zoning, then what property is appropriate?

(A) The site's proximity to residential zoned properties is irrelevant. As shown in Exhibit 14, the County has designated areas in the urban reserve as future IR zones that are adjacent to existing and planned residential zones. In this case, the site is separated from residential properties to the east by the railroad and other IL zoned properties, including a trucking company. Compatibility is not an applicable approval criteria for the proposed zone change. However, if it were, there is no evidence that the proposed IR zoning will have more impact than the existing IL zoning. Many uses allowed in the IL zone could have adverse impacts on adjacent residential uses, including: heavy construction, animal slaughtering and processing, and cement and concrete product manufacturing. The additional uses allowed in the IR zone will have no greater impact than these uses. In addition, the Code requires mitigation for any adverse impacts.

iii. The County's concerns with the feasibility of railroad use on this site are not relevant. CCC 40.230.085.D.2(e) only applies when development is proposed. It does not apply to the current zone change application. However, the applicant will demonstrate the feasibility of rail access on the site. The applicant owns additional property between the site and 72<sup>nd</sup> Avenue that could be utilized to facilitate rail access.

iv. The proposed zone change does not constitute "spot zoning," which is defined as zoning that is totally different from surrounding lands and inconsistent with the comprehensive plan. In this case the proposed zoning is consistent with surrounding zoning and the comprehensive plan. The site is designated Industrial on

the comprehensive plan. Both the existing IL and proposed IR zoning implement the Industrial designation. All surrounding properties are zoned IL, which is very similar to the proposed IR zoning.

v. Ms. Bremer noted that Eric Temple, president of Portland Vancouver Junction Railroad, the railroad operator, submitted written testimony in support of the application and stated that the railroad can serve industrial uses on the site, Exhibit 17.

b. Mr. Gunther noted that there is a small wetland in the east corner of the site.

i. He argued that the proposed zone change will not result in “spot zoning.” The site is surrounded by existing industrial uses that will screen and buffer surrounding non-industrial uses from activities on the site. In addition, the County has planned for IR zoning adjacent to residential zoning as shown in Exhibit 14.

ii. There is an existing railroad siding extending the entire length of the site. Given the relatively low volume of rail traffic, the siding could be used to load and unload materials from rail cars without impacting rail traffic on the main rail line.

4. At the end of the hearing the examiner held the record open for four weeks, subject to the following schedule

a. Until July 2, 2020, to allow the applicant and County staff an opportunity to submit new evidence;

b. Until July 9, 2020, to allow the applicant and County staff an opportunity to respond to the new evidence submitted during the first week;

c. Until July 16, 2020, to allow the public an opportunity to review and respond to the evidence submitted by the County and the applicant and to submit new evidence, as well as to accommodate delays in posting notice on the site and the issuance of the Staff Report; and

d. Until July 23, 2020, to allow the applicant an opportunity to submit a final argument.

5. The following exhibits were submitted during the open record period:

a. A June 26, 2020 email from Eric Temple (Exhibit 18);

b. A transcript of the June 25, 2020 hearing (Exhibit 19);

c. A June 25, 2020 email from Ahmad Qayoumi, Clark County Public Works Director (Exhibit 20);

- d. A Post-Hearing Memorandum from Ms. Bremer dated July 2, 2020 (Exhibit 21);
- e. A Memorandum from Ms. Wooten dated July 2, 2020 (Exhibit 22);
- f. A letter from DeWitt Construction Inc. dated July 8, 2020 (Exhibit 23);
- g. A “Rebuttal” Memorandum from Ms. Bremer dated July 9, 2020 (Exhibit 24);
- h. A Memorandum from Ms. Wooten dated July 9, 2020 (Exhibit 25);
- i. Excerpts from various documents submitted by Mr. Temple (Exhibit 26);
- j. A “Final Rebuttal” Memorandum from Ms. Bremer dated July 22, 2020 (Exhibit 27); and
- k. An “affidavit of publication” dated June 10, 2020 (Exhibit 28).

### **C. DISCUSSION**

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by County staff in their reports, by agency comments, by the applicant and others. The Examiner adopts the following findings with regard to each:

#### **Finding 1 – Approval Criteria**

The applicant requests approval to change the subject site’s existing zoning from IL (light industrial) to IR (railroad industrial). Both zones are included in the I (Industrial) comprehensive plan designation; therefore, a Type III Map Amendment (rezone) is required.

In accordance with Section 40.560.020.F, zone changes may be approved only when all of the following criteria are met:

1. Requested zone change is consistent with the comprehensive plan map designation.

**Applicant statement:** The applicant asserts that both the existing IL and the proposed IR zones implement the site’s Industrial comprehensive plan designation. the IR zone is intended to provide for those industrial uses that are most suited for and can take

advantage of locations along the County's rail line. And as the site is located and abutting the County's rail line, the request is fully consistent with the comprehensive map designation.

The examiner concurs with the applicant's statement and finds that the application complies with CCC 40.560.020(F)(1). This criterion is met.

2. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.

The applicant initially argued that the proposed zone change is consistent with the following plan policies:

Goal: Support freight rail dependent uses where the use is dependent on and makes use of the short line railroad, as defined by the Surface Transportation Board;

Policy 3.8.1: Support freight rail dependent uses in rural lands, as well as agriculture, forest and mineral resource lands, where the use is dependent on and makes use of the short line railroad within the County;

Policy 3.8.2: Freight rail dependent uses will be allowed on parcels with a freight rail dependent use overlay, where such uses minimize impacts on adjacent rural and resource uses;

Policy 3.8.3: Freight rail dependent uses means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development. Clark County may include development of freight rail dependent uses on land adjacent to a short line railroad in the transportation element of this plan. The County may also modify development regulations to include development of freight rail dependent uses that do to require urban governmental services in rural lands; and,

However, as the applicant later noted, policies 3.8.1 and 3.8.2 only apply to properties in the rural area. The site is located within the urban area. Therefore, these policies are inapplicable. In addition, the applicant concedes that the above policies and policy 3.8.3 apply to the planned "freight rail dependent uses" overlay zone. (See p. 3 of Exhibit 27). In addition, as discussed in Exhibit 27, these policies refer to "freight rail dependent uses," which is a planned overlay zone that does not apply to this site.

The applicant argues that the proposed zone change is consistent with and will further policy 3.8.3 by allowing some uses of wood, mineral, and rock products that are not allowed in the IL zone. These materials or products manufactured from these products could be shipped to and from the site by rail. (p. 3 of Exhibit 27).



The applicant cites to the description of the IR zone in the comprehensive plan, which provides:

The Industrial Railroad (IR) base zone provides land uses that require and take advantage of rail access. This designation is appropriate for industrial and manufacturing uses including manufacturing, assembly, fabrication, processing and bulk handling and storage (warehousing).

However, that description is inapplicable, as it is not a plan policy, locational criteria, or purpose statement of the zoning district.

The applicant also cites the following additional plan policies:

Policy 5.4.5: Improve mobility and access for the movement of goods and services on the short line railroad to enhance and promote economic opportunity throughout the county.

Policy 9.6.2: Develop compatible land uses that promote the long-term economic viability of the county railroad.

The applicant further states that the request is fully consistent with locational criteria as there are few properties located along the rail line that could support development served by rail as contemplated by the comprehensive plan.

CCC 40.230.085.B.1.c provides the following purpose statement for the IR zone:

Railroad Industrial District (IR). The railroad industrial district is intended to provide for those industrial uses that are most suited for and can take advantage of locations along the county's rail line.

The examiner finds that the proposed IR zone is consistent with the plan policies and locational criteria and the purpose statement of the zoning district. The site abuts the railroad, allowing future uses on the site to utilize the railroad for transportation. Development on this site that utilizes the railroad will implement plan policies 5.4.5 and 9.6.2, by allowing the site to develop with a variety of industrial uses that could utilize the railroad for transport goods and materials to the site. Therefore, the examiner finds that the application complies with CCC 40.560.020(F)(2). However, the examiner notes that the current IL zone also implements these policies, as uses on the site can utilize the railroad under existing conditions.

Staff argue that the application does not comply with CCC 40.560.020(F)(2), because some uses in the IR zone may be incompatible with residential uses and zoning on properties east of the site. However, compatibility is not relevant to this approval criteria or any of the applicable plan policies. As used in Policy 9.6.2 term "compatible" refers to compatibility with the railroad. It does not require compatibility with other surrounding uses.

Staff noted that CCC 40.230.085.B.2 provides that uses allowed in the IH zone, “are potentially incompatible with most other uses.” Staff also cite to p. 35 of the comprehensive plan, which notes that heavy industrial (IH) uses, “may be incompatible with other categories of land uses.” However, this Code section and policy are inapplicable in this case. IH zoning is only allowed on land designated IH (Heavy Industrial) in the comprehensive plan map. The comprehensive plan designates the site as I (Industrial), which allows the proposed IR zoning, as well as BP (Business Park), IL (Light Industrial), and A (Airport) zoning. The IR zoning code and the Industrial sections of the comprehensive plan make no mention of compatibility. If the Board was concerned about compatibility of IR zoning with other uses or zones, it would have said so, as it did for the IH zone and plan designation. It is a standard rule of statutory construction that the inclusion of a term or phrase in one section and not another implies an intent to exclude that term or phrase.

In addition, industrial uses allowed in the IR zone are unlikely to cause significant impacts on nearby residentially zoned properties. The nearest residential zoned properties are located roughly 400 feet east of the site. Those properties are separated from the site by the 50-foot wide railroad right-of-way and a large IL zoned property that is currently operated as trucking business. This distance and intervening uses will serve to screen and buffer residential uses on these properties from activities occurring on the site.

Staff initially argued that the change of only this 2.69 acre site to IR zone would constitute spot zoning, as the site is surrounded on all sides by the IL, light industrial, district. However, staff subsequently withdrew this argument. (See Exhibit 25). The examiner finds that the proposed zone change does not constitute spot zoning, as the proposed IR zoning is consistent with the Industrial comprehensive plan designation for the site.

Staff also questioned the feasibility of providing rail service to the site, given the site’s limited frontage (approximately 250 feet) and the 2.5-acre site may be too small to accommodate rail facilities. Staff argued that the applicant should be required to provide a conceptual plan developed by an engineer to ensure rail development is possible on the site. Staff subsequently withdrew this argument (Exhibit 25). The examiner finds that it is feasible to construct a rail spur on the site, construct a third rail line/spur within the existing right-of-way parallel to the existing tracks, or utilize the existing side track or main track abutting the site to move goods and materials between rail cars and the site. The site’s 250 feet of rail frontage can accommodate four to five rail cars. The County has no authority to regulate the use of the railroad. (Exhibit 18 and Attachments 1, 2, and 10 of Exhibit 21). The examiner further finds that the site is large enough to utilize rail service. As discussed in Exhibit 17, the largest parcel currently served by the railroad is only 2.3 acres and the second largest is 1.67. acres. The 2.5-acre site is adequately sized to utilize rail service.

The examiner finds that this criterion is met.

### 3. The zone change either:

- a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
- b. Better implements applicable comprehensive plan policies than the current map designation; or
- c. Corrects an obvious mapping error.

As criterion “a” does not apply to this request, the applicant addresses criterion “b” by stating that the site is uniquely able to take advantage of the rail lines proximity to the subject property. The applicant further recounts Clark County’s legislative process, including a report entitled *Chelatchie Prairie Railroad Market Study* and its recognition of the positive economic impact the IR zone, and subsequent allowed uses, would have on the County by providing a location for rail dependent uses. The applicant notes that this site is uniquely located to take advantage of the rail line which is adjacent to the property and argues that, since Clark County has made the legislative determination to encourage rail-dependent uses and uses served by rail on properties adjacent to the rail lines, a change in zoning designation better implements applicable comprehensive plan policies than the current map designation.

The examiner does not concur with the applicant's statements and finds that the applicant failed to demonstrate that a change from the current light industrial (IL) zone to the railroad industrial (IR) zone does not better implement applicable comprehensive plan policies than the current map designation. Therefore, the application does not comply with CCC 40.560.020(F)(1)(b).

The applicant repeatedly argues that the site uniquely situated to take advantage of rail line. That may be true, but the proposed zone change will not alter the ability of uses on the site to utilize the railroad. The applicant and staff agree that there is nothing precluding the applicant from utilizing the railroad under the current zone; uses on the site may utilize the railroad under the existing IL zoning. As discussed in Attachment 5 of Exhibit 21, there are several existing industrial businesses in the IL zone that currently utilize the railroad to transport goods and materials. Any uses permitted in the IL zone could be developed on the site and utilize the railroad under existing conditions. Changing the site zoning to IR will not *per se* enhance use of the railroad compared to the existing IL zoning.

Approval of the zone change would allow certain additional uses that are not permitted in the existing IL zone, including: oil and gas extraction, mining, support activities for mining, leather and allied product manufacturing, wood product manufacturing, paper manufacturing, petroleum and coal products manufacturing, chemical manufacturing, primary metal manufacturing, and fabricated metal product manufacturing. However, there is no evidence in the record that these additional uses can be accommodated on the site or that such uses are more likely to utilize the adjacent railroad for transport of goods and materials. Absent such evidence, the examiner cannot find that the proposed zone change better implements applicable comprehensive plan policies than the current IL map designation.

Staff repeatedly note that the site is not located in an area with extensive rail or shipping facilities. (See, e.g., pp. 7 and 8 of the Staff Report). However, this standard is not relevant to the proposed zone change. The comprehensive plan states that the IH designation, “is appropriate for areas which have extensive rail and shipping facilities.” p 35 of comprehensive plan. This standard does not apply to the I (Industrial) plan designation nor any of the zones that implement the I designation. If the Board felt that extensive rail and shipping facilities were necessary for the IR zone, it would have included such a requirement in the Plan and/or the Code.

As an alternative argument, the applicant asserts that the current IL zoning is an obvious mapping error, because the IR zone can only apply to properties located on or near the railroad. CCC 40.560.020(F)(1)(c). However, as shown in the County’s GIS maps, the majority of the IL zoned properties in the County are located along the Chelatchie Prairie Railroad line. As discussed above, uses in the IL zone can utilize the railroad under existing conditions, without changing the zoning to IR. Therefore, the examiner finds that the proposed zone change will not correct an obvious mapping error. CCC 40.560.020(F)(1)(c).

The examiner finds that this criterion is not met.

4. There are adequate public facilities and services to serve the requested zone change.

Applicant statement: The applicant indicates that site can be served by public water and sewer, an adequate transportation system, including the adjacent rail line, for uses permitted by the railroad industrial zone, which meets this criterion.

Staff again notes that the site is not located in an area with extensive rail or shipping facilities which are appropriate for heavy industrial uses. However, as discussed above, this standard only applies to the heavy industrial plan designation.

The examiner finds that adequate public facilities and services are available to serve the requested zone change. There is no evidence that uses allowed in the IR zone require any additional public facilities and services beyond those that are currently available to serve uses permitted in the existing IH zone. This criterion is met.

### **Conclusion (Land Use)**

The examiner concludes that the applicant failed to prove that the proposed zone change complies with all of the applicable approval criteria in CCC 40.560.020(F). Specifically, the examiner finds that the applicant failed to demonstrate that the proposed zone change to IR will better implements applicable comprehensive plan policies than the current IL map designation.

### **Transportation Concurrency**

#### **Finding 1 - Applicability**

Concurrency staff has reviewed the Pioneer Industrial rezone request application. The applicant is proposing to rezone the subject property from a Light Industrial zoning to Railroad Industrial. Because the proposed rezoning of the property is not proposing a site-specific development, the rezone itself is not anticipated to exceed 10 peak hour trips. Therefore, Concurrency has no further comments. Please note that a site-specific development application will require the reevaluation of transportation impacts on the surrounding road network and may require a traffic study. The site is located at 7511 NE 101<sup>st</sup> Street in Vancouver.

**Conclusion (Concurrency)**

The examiner concludes that the proposed preliminary plan, subject to conditions identified in their attached report, meets transportation concurrency requirements of the Clark County Code.

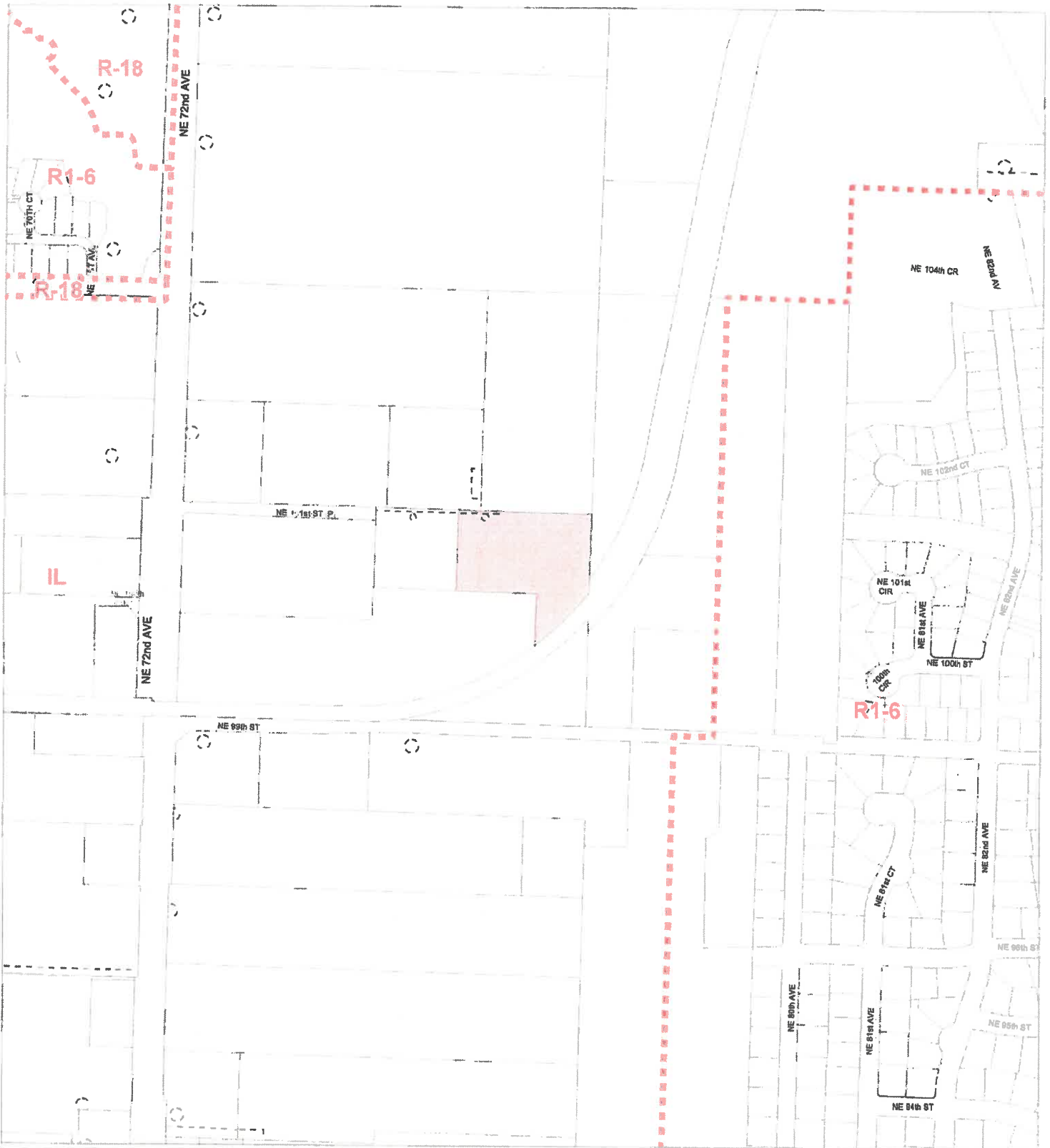
**D. CONCLUSION AND DECISION**

Based on the above findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby denies OLR-2020-00059 (Pioneer Industrial Rezone) for IR zoning.

DATED this 6<sup>th</sup> day of August, 2020.



Joe Turner, AICP  
Clark County Hearing Examiner



### Zoning Designations

Account: 119480000  
 Owner: PIONEER INDUSTRIAL LLC  
 Address: 7416 NE 101ST ST  
 C/S/Z: VANCOUVER, WA 98662

Printed on: December 18, 2019

Geographic Information System

0 200 400 Feet

Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.

- Subject Property(s)
- Public Road
- Transportation or Major Utility Easement
- Zoning Boundary
- Urban Holding - 10 (UH-10)
- Urban Holding - 20 (UH-20)
- Urban Holding - 40 (UH-40)
- Surface Mining Overlay District

32130	32129	32128
32131	32132	32133
22106	22105	22104

Role	Company Name	Name	Address 1	Address 2	City	State	Zip Code	Email Address
Planner	Clark County	Amy Wooten						
Applicant/Contact	Niller Nash Graham & Dunn LLP	LeAnne Bremer	500 Broadway	Ste 400	Vancouver	WA	98660	<a href="mailto:leanne.bremer@millernash.com">leanne.bremer@millernash.com</a>
Owner	Pioneer Industrial, LLC	Mike Leboki	7416 NE 101st St		Vancouver	WA	98662	<a href="mailto:taytransport@aol.com">taytransport@aol.com</a>
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Contact Person								
Utility Contact								
	Clark County	Desiree de Monye						<a href="mailto:desiree.demonye@clark.wa.gov">desiree.demonye@clark.wa.gov</a>
	City of Vancouver	Kristin Lehto						<a href="mailto:Kristin.Lehto@cityofvancouver.us">Kristin.Lehto@cityofvancouver.us</a>
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POR		James Essig						<a href="mailto:James.Essig@gcinc.com">James.Essig@gcinc.com</a>



# EXHIBIT LIST

Project Name: **PIONEER INDUSTRIAL REZONE**

Case Number: **OLR-2020-00059**

EXHIBIT NUMBER	DATE	SUBMITTED BY	DESCRIPTION
1	3/23/20	Applicant	Application Package
2	4/14/20	CC Land Use	Fully Complete
3	5/19/20	CC Land Use	Notice of Type III Application
4	5/19/20	CC Land Use	Affidavit of Mailing - Exhibit 4
5	6/3/20	CC Land Use	Comment letter from Ecology
6	6/5/20	CC Land Use	Concurrency comments
7	6/5/20	CC Land Use	Fire comments
8	no date	CC Land Use	map
9	6/10/20	CC Land Use	Email_Jessig
10	6/12/20	Applicant	Sign Posting Affidavit
11	no date	CC Land Use	Abridged Table 40.230.085-1
12	6/23/20	CC Land Use	Staff Report and Recommendation
13	6/23/20	CC Land Use	Affidavit of Mailing - Exhibit 12
14	6/25/20	Applicant	Railroad Industrial - Urban Reserve Map
15	6/25/20	Applicant	Railroad Industrial - Urban Reserve Aerial
16	6/25/20	Applicant	County Aerial Photo
17	6/25/20	CC Land Use	PCL_ETemple
18	6/26/20	CC Land Use	Email_ETemple
19	6/30/20	CC Land Use	Hearing Transcript
20	7/1/20	CC Land Use	Email_AQayoumi
21	7/2/20	Applicant	Applicant Memo to HE and attachments
22	7/2/20	CC Land Use	Memo to the HE
23	7/9/20	CC Land Use	PCL_TDeWitt
24	7/9/20	Applicant	MillerNash Rebuttal
25	7/9/20	CC Land Use	Response to Exhibit 21
26	7/16/20	CC Land Use	PCL_ETemple
27	7/23/20	Applicant	Final Rebuttal
28	7/28/20	CC Land Use	Affidavit of Publication - The Columbian
29	8/6/20	CC Land Use	Hearing Examiner Decision
30	8/6/20	CC Land Use	Affidavit - Exhibit 29

Copies of these exhibits can be viewed at:  
 Department of Community Development  
 Development Services Division  
 1300 Franklin Street  
 Vancouver, WA 98666-9810