



OREGON

"Delivering Excellence Everyday"

MARION COUNTY BOARD OF COMMISSIONERS

Wednesday, September 24, 2025
Board Session 9:00 a.m.

Senator Hearing Room
555 Court Street NE, Salem

PUBLIC COMMENT

PRESENTATION

1. United Way 2025 Employee Contribution Campaign Kick-off. –Gary White and Megan Trowbridge, United Way of the Mid-Willamette Valley

CONSENT

PUBLIC WORKS

2. Approve an order that delegates authority to the Marion County Public Works Director, and designees, to sign septic easement quitclaim deeds.

3. Receive notice of the hearings officer's decision approving Partition/Variance (P/V) Case #25-013/Francisco Villalobos.

4. Approve the incoming funds Supplemental Project Authorization with the Oregon Department of Transportation (ODOT) that utilizes Federal Lands Access Program (FLAP) funding in the amount of \$2,133,909.05, with no county match required, for the construction of guardrails at ten locations for the North Fork Guardrail Improvements Project through December 31, 2035.

BUSINESS SERVICES

4.5. Approve an order delegating authority to any Marion County Commissioner or the Marion County Chief Administrative Officer if a Commissioner is not available, to sign documents associated with the acquisition of real property located in Salem, Oregon, to accommodate operations for two county programs.

(Revised 9/24/2025: Motion made and approved to add this item to the Consent agenda)

ACTION

BOARD OF COMMISSIONERS

Board Appointments – Ambulance Service Area Committee

5. Consider approval of orders appointing Toni Grimes and Timothy Morris to the Marion County Ambulance Service Area (ASA) Committee with terms ending January 31, 2027; and Jordan Donat with a term ending January 31, 2028.

–Katrina Griffith and John Kubasak

HEALTH AND HUMAN SERVICES

6. Consider approval of Amendment #2 to the Intergovernmental Agreement with the Oregon Health Authority to add \$125,000 for a new contract total of \$525,000, to cover a remittance fee increase for licensing and inspection services provided by the state for restaurants, mobile food units, pools, and lodging establishments through June 30, 2029. –Alisa Zastoupil

JUSTICE COURT

7. Consider approval of the Software as a Service (SaaS) Contract with Tyler Technologies, Inc. in the amount of \$559,808 for implementation and support of a case and document management system through May 30, 2030. –Justice of the Peace Justin Kidd

(Revised 9/24/2025: Motion made and approved to move this item to the Consent agenda)

PUBLIC WORKS

8. Consider the adoption of an administrative ordinance for Zone Change/Comprehensive Plan Change/Administrative Review (ZC/CP/AR) Case #25-001/Jerome P. Lackner.

–Austin Barnes

9. Consider the adoption of an administrative ordinance for Zone Change (ZC) Case #25-003/LuckyJun, LLC. –Austin Barnes

10. Consider the adoption of an administrative ordinance for Comprehensive Plan Change/Zone Change/Partition (CP/ZC/P) Case #19-005/Lois Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust. –Austin Barnes

PUBLIC HEARINGS

Starting no earlier than 9:30 a.m.

COMMUNITY SERVICES

A. Public hearing to consider the 2024-2025 Consolidated Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) and HOME Investment Partnership programs. –Steve Dickey

ACTION

COMMUNITY SERVICES

11. Consider the approval of a resolution to adopt the Program Year 2024-2025 Consolidated Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) and HOME Investment Partnership programs. **(TO BE ACTED ON FOLLOWING THE PUBLIC HEARING)** –Steve Dickey

Members of the public may submit written testimony by email to PublicHearings@co.marion.or.us For agenda items where in-person testimony is allowed, the public may sign up to provide testimony by telephone by emailing PublicHearings@co.marion.or.us at least 24 hours before the meeting. The email must specify the meeting date/time and agenda topic for which testimony is being submitted. For telephone testimony requests, the email must also include your name and the phone number that staff should use to call you at the appropriate time.

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168 Si necesita servicios de interprete, equipo auditivo, material copiado en letra grande, o culaquier otra acomodacion, por favor llame al 503-588-5212 por lo menos 48 horas con anticipacion a la reunion. TTY 503-588-5168 Marion County is on the Internet at: www.co.marion.or.us



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Board of Commissioners

Title: 2025 Marion County Employee United Way Campaign

Management Update/Work Session Date: September 16, 2025 Audio/Visual aids

Time Required: 10 Min Contact: Gary White Phone: 5193

Requested Action: Informational presentation to the board kicking off the 2025 United Way Campaign October 1-31

Issue, Description & Background: October 1-31 Marion County employees will once again host and participate in a number of events and activities to raise funds for the United Way of the Mid-Willamette Valley.

The United Way supports numerous local charities and groups who provide services and support to residents of Marion County. This annual event promotes both one time and ongoing donations. Donations to the United Way can be directed to their charity of choice by employees.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Video

Presenter: Gary White & Megan Trowbridge

Department Head Signature: Chris Eppley Digitally signed by Chris Eppley Date: 2025.09.12 10:32:09 -07'00'



**YOUR SUPPORT.
OUR COMMUNITY.
LASTING IMPACT.**

Our mission is to **improve lives, strengthen communities and advance lasting impact** by mobilizing the caring power of people just like you.



~1,400

school-age students served daily in our Enrichment Academy with 25 **College & Career mentors**

2,900 Awesome 3000 **runners!**



\$470,000

invested in SafeSleep United providing shelter for 506 **individuals**, 7,836 **bed nights** and 11,179 **meals served**.



\$409,000

in **Community Impact Grants** awarded to programs including but not limited to Polk County Family and Community Outreach, Jefferson School District and the Zero Waste Management of Yamhill County.



91 CENTS

of every dollar goes **directly to community programs**.



\$227,000

designated to **our community**;



\$4.8 MILLION

worth of **goods distributed** through our Community Resource Center and our 250+ nonprofit partners

GIVE. ADVOCATE. VOLUNTEER. LIVE UNITED.

Serving Marion, Polk, and Yamhill Counties

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UNITED WAY
Mid-Willamette
Valley

1937 • 2024

Current Programs:

Awesome 3000

Youth fun-run for all ages, Pre-K through High School. The registration fee helps raise thousands of dollars every year for innovative grants within the Salem-Keizer School District that support student success.



SafeSleep United

In 2024, we gave 7,822 nights of safety and 11,876 meals of hope to up to 50 local women and children in need.



Community Resource Center

Through a partnership, the CRC can provide over \$4,000,000 in goods annually to our communities in Marion, Polk, and Yamhill Counties. Our CRC has a partnership with Toys for Tots, which has allowed us to distribute over 60,418 toys and books to children and families in our area.



Cottages United

Build Affordable, Safe, and Sustainable Housing
Initial Priority for Seniors, Women, and Veterans
Rent is \$500 per month
Meets Building/Energy codes
Durable and Functional as well as Effective Construction
Easily Replicable/Multiple Communities

Enrichment Academy

Designed to increase student achievement, improve student engagement, improve family engagement, reduce hunger, and increase wellness



Community Resource Network

Nonprofits can share resources and goods
Nonprofits and community members can view and fulfill requests
Nonprofits can seek resources for unmet needs
Nonprofits can gather quarterly to collaborate and celebrate



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: Release of Septic Easements

Management Update/Work Session Date: August 26, 2025 Audio/Visual aids

Time Required: 0 min Contact: Brandon Reich Phone: 503-566-4175

Requested Action: Staff recommended motion is to sign an order delegating authority to sign septic easement quitclaim deeds to the Marion County Public Works Director, or designees.

Other motions options for consideration are to not sign the order.

Issue, Description & Background: When septic systems are installed, depending on the design of the system, components such as drainfields may be installed on neighboring properties, which requires an easement be recorded. If the easement becomes no longer necessary, as agents of DEQ for the purposes of the septic program, Marion County can record a quitclaim deed to remove DEQ's interest in the easement.

The board may sign the quitclaim deed or designate someone to sign. Staff recommends the board designate the Public Works Director, or designee, in order that the Marion County Building Official and the Marion County Building and Planning Division Manager could sign as well. The deeds will be prepared by Marion County Building Inspection and the Marion County Surveyor.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Order

Presenter: Brandon Reich

Department Head Signature: for Brandon Reich

BEFORE THE BORAD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the matter of delegating authority to the Marion)
County Public Works Director, and designees, to)
sign septic easement quitclaim deeds.)

ORDER No. _____

This matter comes before the Marion County Board of Commissioners at its regularly scheduled public meeting on Wednesday, September 24, 2025.

WHEREAS, property owners may enter into agreements which are signed for acceptance by Marion County to establish easements for septic systems and components of septic systems on adjacent property;

WHEREAS, at times an easement is no longer required and should be removed from applying to a property;

WHEREAS, removing a septic easement requires the county to act as an agent of the Oregon Department of Environmental Quality consistent with the contract between Oregon Department of Environmental Quality and Marion County dated May 22, 1981.

WHEREAS, removing a septic easement may be accomplished by the recording of a quitclaim deed which must be approved by the Board of Commissioners;

WHEREAS, the board desires to delegate authority to sign such quitclaim deeds to the Public Works Director or designee; now therefore,

IT IS HEREBY ORDERED that the Marion County Public Works Director, and designees, are authorized to sign septic easement quitclaim deeds effective September 24, 2025.

DATED at Salem, Oregon, this ____ day of _____ 2025.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: Receive notice of the Hearings Officer decision approving Partition/Variance 25-013/Francisco Villalobos

Management Update/Work Session Date: N/A Audio/Visual aids []

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Receive notice of the Hearings Officer decision approving Partition/Variance 25-013/Francisco Villalobos.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on August 7, 2025. On September 9, after open record periods concluded, the Hearings Officer issued a decision on September 9, 2025 approving Partition/Variance 25-013. As part of the land use process, the Marion County Board of Commissioners must receive official notice of the decision.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: HO Decision.

Presenter: Austin Barnes

Department Head Signature: for Brandon Risch

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of) Case No. P / V 25-013
FRANCISCO VILLALOBOS) PARTITION / VARIANCE

ORDER

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the Application of Francisco Villalobos to partition an 8-acre parcel into three parcels consisting of 4-acres, 2-acres, and 2-acres and a variance to MCC 17.110.800 to allow five dwellings to be served off a private easement in an AR (Acreage Residential) zone located at 2628 Happy Valley Way SE, Salem.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Rural Code, Marion County Code (MCC) Chapter 17, particularly Chapter 17.128 (Acreage Residential Zone), Chapter 17.122 (Variances), and Chapter 17.110.800 (Dwellings and all other buildings to be accessible to a public street).

III. Public Hearing

A public hearing was held on this matter on August 7, 2025. At the hearing, the Planning Division file was made a part of the record. The following persons appeared at the hearing and provided testimony and/or argument on the Application:

- | | | |
|----|----------------|---------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Norman Bickell | Applicant Representative |
| 3. | Victor Pagel | Appellant / Opponent |

No objections were made to notice, jurisdiction, or conflict of interest. The following exhibits were presented at the hearing, and included in the record:

- Exhibit 1: Map 08 2W 02C
- Exhibit 2: Written Statement of Victor Pagel

An open record period was requested by Applicant and Appellant pursuant to ORS 197.797 and MCC 16.44.100. Applicant provided his first open-record submission to Planning on August 12, 2025. However, because of an email address error, Mr. Pagel did not receive the submission until Monday, April 18, 2025. Mr. Pagel therefore requested until Monday, August 25, 2025 to provide a second open-record submission, and the Applicant was granted until September 2, 2025 for a final submission to allow for the Labor Day holiday on September 1, 2025.

The following submissions were entered into the record:

- Open Record Period 1: Response to Appellant Letter Opposing the Granting of a Variance/Partitioning on Applicant's Property from Norman Bickell for Francesco Villalobos
- Open Record Period 2: Submission of Victor Pagel
- Open Record Period 3: Final Submission from Norman Bickell on behalf of Applicant

IV. Executive Summary

Applicant seeks to partition an 8-acre parcel into three parcels consisting of 4-acres, 2-acres, and 2-acres and a variance to allow five dwellings to be served off a private easement in an AR (Acreage Residential) zone. Marion County Planning Division approved the application, and the decision was appealed by an adjacent property owner.

The Notice of Appeal challenges whether MCC 17.122.010 authorizes a variance of the number of dwellings to be served by an easement. If such authority exists, Appellant also challenges whether Applicant meets the variance criteria.

Marion County Planning has interpreted MCC 17.122.010 to allow a variance, and variances to the number of dwellings allowed off a private drive were granted in V 22-004 (after a public hearing), V 06-007, and V 06-002. MCC 17.122.010 includes language that provides authority for the hearings officer (or director, planning commission or Board) to allow a variance for a "any of the standards of this title" (not uses). A "standard of this title" is the access standard. The four-dwelling limit on a private drive is a standard stated at MCC 17.110.800. As a standard, the four-dwelling limit can be varied if the variance criteria are satisfied.

Further, the AR zone has a limitation on the amount of land available for development, and the allowance of a variance to reach density allowed in the zone will accomplish efficient use of the land in the AR zone and is critical to reduce the pressure for expanding the zone into adjacent resource zones.

Upon presentation of the evidence and review of the record, the Hearings Officer determines that the proposed partitioning and variance complies with the criteria in the AR zone and Applicant has met his burden of proving the applicable standards and criteria for **APPROVAL** subject to conditions.

V. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas.
2. The subject property is located at the end of Happy Valley Way SE, approximately 450 feet south of its intersection with Burton Pl SE. The property contains one dwelling and a few accessory structures in the northeast corner. South of the dwelling contains a dense wooded area. A canal/ditch runs along the southwest property line.

The subject property was first created as Parcel 1 of Partition Case P94-051. The property was then subject of P/PLA23-021, in which tax lot 100 gained acreage from the southern portion of what was once tax lot 200, making tax lot 100 8-acres in size. The subject property is therefore legal for land use purposes.

3. Surrounding uses consist of AR parcels containing acreage homesites.
4. Applicant proposes to divide an 8-acre parcel into three parcels consisting of 4-acres, 2-acres, and 2-acres. The applicant also requests a variance to allow more than four dwellings to be served by a private road, as the roads Burton Pl and Happy Valley Wy already create access to four dwellings.
5. The Marion County Planning Division requested comments from various governmental agencies:

Public Works Land Development and Engineering Permits (LDEP) commented:

Applicant is advised to consult with the local Fire Marshal regarding any plat requirements for depiction of fire easement turnouts and/or turnaround and potential construction of emergency access improvements as triggered by application for building permits.

Marion County Surveyor's Office commented:

- a. Parcels must be surveyed and monumented.
- b. Per ORS 92.050, plat must be submitted for review.
- c. Checking fee and recording fees required.
- d. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

Marion County Fire District No. 1 commented that the project must meet following code requirements:

- a. Fire-flow requirements for buildings in protected areas without adequate and reliable water systems. The 2017 National Fire Protection Association 1142,

PARTITION / VARIANCE 25-013

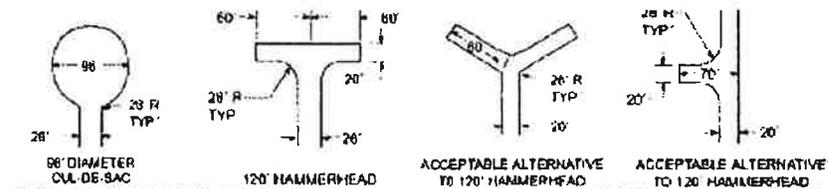
Francisco Villalobos

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Standard on water supplies for suburban and rural firefighting, 2022 Oregon Fire Code Section B 107. The requirements for firefighting water supplies may be modified as approved by the fire code official where any of the following apply: (2022 OFC 503.1.1 Exception).

- i. Buildings are equipped throughout with an approved automatic fire sprinkler system (the approval of this alternate method of construction shall be accomplished in accordance with the provisions of ORS 455.610(5).
 - ii. There are not more than two Group R-3 or Group U occupancies.
- b. Fire Safety During Construction: Approved fire department access road, required water supply, fire hydrants, and safety precautions shall be installed and serviceable prior to and during the time of construction. 2022 Oregon Fire Code Chapter 33.
- c. Turnouts: When a fire apparatus access road exceeds 400' feet in length, turnouts 10' feet wide and 30' feet long shall be provided in addition to the required road width and shall be placed no more than 400' feet apart, unless otherwise approved by the fire code official. These distances may be adjusted based on visibility and sight distances. (OFC Chapter 5)
- d. Turning radius: The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point. (2022 OFC 503.2.4 & Appendix D)
- e. Fire apparatus road distance from buildings and turnarounds: Access roads shall be within 150' of all portions of the exterior wall of the building as measured by and approve route around the exterior of the building. An approved turnaround is required if the remaining distance to an approve intersection roadway, as measured along the fire apparatus access road, is greater than 150'. 2022 Oregon Fire Code 503.1.1
- f. Dead End Roads: Dead end fire apparatus access roads in excess of 150' feet in length shall be provided with an approved turnaround. Diagrams of approved turnarounds are shown below: (OFC 503.2.5)



- g. Fire Apparatus Access Road Width and Vertical Clearance: Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet; 26 feet adjacent to fire hydrants 2014 Oregon Fire Code (OFC) Appendix D 103.1 and an unobstructed vertical clearance of not less than 13 feet 6 inches. 2022 Oregon Fire Code Section 503.2.1 and Appendix D103.1
- h. No parking signs: Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, “No Parking” signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read “NO PARKING – FIRE LANE” and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a reflective white background. 2022 OFC D103.6-D103.6.2. You may contact the Fire Marshal if you would like code requirement for painted curbs. 2022 OFC 503.3
- i. Premise identification: Buildings shall have address numbers or approved identification placed in a position that is plainly legible and visible from the access road fronting the property. Numbers shall contrast with their background and shall be a minimum of 4 inches height with a minimum stroke width of ½ inch. 2022 OFC 505.
- j. Gates: Gates securing fire apparatus roads shall comply with all the following (2022 OFC D103.5):
 - i. Minimum unobstructed width shall be 16 feet.
 - ii. Gates shall be set back a minimum of 30 feet from the intersecting roadway.
 - iii. Gates shall be of the swinging type or sliding type.
 - iv. Manual operation shall be capable by one person.
 - v. Electric gates shall be equipped with a means for operation for fire department personnel.
 - vi. Locking devices shall be approved

Marion County Building Inspection commented: “No Building Inspection concerns. Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.”

Marion County Septic commented: “A site evaluation is required for both proposed 2-acre parcels and an Existing System Evaluation is required on the proposed 4-acre parcel to verify a 10’ setback to property lines and verify there is room for a repair system on the property.”

Marion County Tax Assessor provided information regarding taxes on the subject property.

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

6. Austin Barnes, Marion County Planning Department, testified at the hearing. Mr. Barnes stated that this proposal involves a private drive that is located off a private drive, which was previously allowed by the County but is now longer permitted. Mr. Barnes explained that when Planning is considering a variance to a private road, the significant inquire is whether the road is safe and are there any existing hazards. In this case, based on historic use and road engineering, there are no safety concerns from Planning's perspective. Mr. Barnes noted that the Appellant previously applied to partition as the Applicant has done, and such application was approved. Mr. Barnes further explained that the Appellant's concern about the reduction of his property value based upon the partition and variance is not a criterion under the Marion County Code. Mr. Barnes responded to the Appellant's concern that the variance criteria is not satisfied in noting that no criteria is cited by Appellant. Mr. Barnes stated that in this case, there is no other way to provide access to the parcel, and that if development is permitted, the road safely supports additional traffic. Planning determines that the variance criteria are met.
7. Norman Bickell, Applicant Representative, testified at the hearing. Mr. Bickell testified that he agrees with Planning that this area of Macleay has been partitioned prior to land use planning in 1973, and that there has been redivision over the years. Mr. Bickell does not see that the Appellant would be losing value to his property with approval of the application, but that issue does not have any bearing on whether the criteria is met. Mr. Bickell argues that the criteria are satisfied, and that the hearings officer does have authority to grant a variance to the number of dwellings served under MCC 17.122.020. Mr. Bickell states that there could not be an extension to Burton place because the lots are not owned by the Applicant. Mr. Bickell testified that there are no safety issues associated with the roadway because the road is paved, and the 12-foot width is sufficient for a private road.
8. Victor Pagel, Appellant, testified at the hearing. Mr. Pagel submitted his written comments as Exhibit 2. Mr. Pagel stated that he and his wife, Martha Pagel, deceased bought their property in 1987. Mr. Pagel stated that before the hearings officer can review the criteria, the determination must be made regarding whether MCC 17.122.010 gives the hearings officer the power to grant a variance. Mr. Pagel argues that the hearings office does not have the authority to grant a variance under MCC 17.122.010: the type of variance requested (limitation of the number of dwellings per easement standard) is not permitted. Mr. Pagel states that because MCC 17.122.010 includes specific references (lot area, lot width, percentage of lot coverage and number of dwelling units or structures permitted on a lot, height of structure, location, yards, signs, parking and loading space, vision clearance and other standards), because "number of homes to be served by a private roadway" is not included, it is specifically excluded.

Mr. Pagel testified that the only review criteria on which Planning focused is safety. Mr. Pagel argues that the easement is only a single lane of traffic, and he disputes that there are only two lots without sufficient right of way. Mr. Pagel argues there are alternative to

the variance, including extending Burton Place. Mr. Pagel testified that the County no longer permits the private intersections, and it should similarly not increase use with a variance in this case. Mr. Pagel argues that increased traffic results in a decreased value of his property which has the effect of condemnation.

Victor Pagel testified that his objection is focused on the variance, not the partition.

9. On August 12, 2025, Applicant's First Open Record Submittal was received. Applicant's submission addressed the questions presented by Appellant: (1) Whether the hearings officer has the authority to grant a variance; (2) Whether the criteria in MCC 17.122.020 is met; (3) Whether the 10.5 feet paved roadway is sufficient for vehicular traffic; (4) Whether other property owners were approached to extend public right of way; and (5) Whether the easement concerns raised by applicant are sufficient to limit additional use of the easement.

Applicant argues that the power to grant variances arises in MCC 17.122 language allowing a variance with respect to the "number of dwelling units" when "limits for an adjustment" in 17.116.030 are exceeded." Marion County Planning determined, based on policy and interpretation, that the number of dwelling units that are limited off a private easement is a variable standard.

Applicant's continued position is that the criteria of MCC 17.122.020 is satisfied.

Applicant agrees to add two additional feet of gravel to the existing 10.5 feet paved roadway to verify the easement is an all-weather surface with a minimum of 12 feet.

Applicant argues that he has no right to provide for a public street extension of Burton Place SE, and that such provision is cost-prohibited. Also, Applicant has frontage on the easement.

Applicant argues that Appellant's easement concerns are shared with any easement, and that the concerns would be in place regardless of the number of dwelling units served by the easement.

10. On August 25, 2025, the Appellant submitted his supplemental comments in opposition to the variance requested in P V 25-013. Appellant argues that MCC 17.122.010 is silent as to the limitation of the number of dwellings per easement standard, yet specific with regard to listing matters about which standards may be varied. Mr. Pagel argues that a legislative act is required to modify MCC 17.110.800 to allow its variance.

Appellant argues that the feasibility of alternate should be further considered, and that safety of the existing access and risks of damage raises a legitimate question about whether the criteria for a variance have been satisfied.

11. On September 2, 2025, the Applicant submitted his final submission. Applicant argues that the number of additional dwellings to be served by the easement is a variable standard, and that the interpretation is consistent with prior County decisions (included for illustrative purposes). Applicant also argues that there are no alternatives to a variance (as suggested by Appellant) because the alternative unreasonably requests that other property owners (not participating in the hearing) to give up an additional 30 feet of their property to accomplish the 60 feet required for a public street (none of which would be the appellant).

VI. Additional Findings of Fact and Conclusions of Law

1. Applicant has the burden of proving all applicable standards and criteria are met by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

2. Applicant must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, applicants have not met their burden, and the application must be denied. If the evidence for every criterion there's a hair or breath in applicant's favor the burden of proof is met and the application is approved.
3. The Planning Director for Marion County approved the application on June 12, 2025, subject to certain conditions.
4. Victor C. Pagel, an interested party, filed an Appeal of the Planning Division Decision on June 27, 2025. Mr. Pagel filed the appeal on the basis that (1) the government's decision results in a reduction in land value for his property; (2) The partitioning of the land to allow additional dwellings is not authorized; and (3) that the variance criteria necessary to allow more than four dwellings to be served by private easement are not satisfied. The appeal is timely, and a public hearing was scheduled in response to the notice of appeal.

PARTITION

5. There are no specific approval criteria for partitioning property in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres.

Applicant proposes to develop three lots: two lots with consisting of 2 acres, and a third lot consisting of 4 acres. Each lot will comply with the minimum lot size of the zone. The standard is met.

PARTITION / VARIANCE 25-013

Francisco Villalobos

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Final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum of two acres in size.

6. Appellant, Mr. Pagel, challenges the authorization to partition the four (4) acres to allow for more dwellings. However, no specific basis for the lack of authorization under the Marion County Code is stated. Although Mr. Pagel challenges the authorization, his primary objection is directed at the proposed variance rather than the proposed partition.
7. The proposal meets the criteria for partitioning in the AR zone.

VARIANCE

8. MCC 17.122.040 permits an application for a variance to be filed by the owner of the property that is the subject of the application. Francisco Villalobos submitted a Bargain and Sale Deed recorded in the Marion County Records at 2024-33823 which indicated Francisco Villalobos is the owner of the subject property. The criterion is met.
9. MCC 17.122.045 requires the variance application to include the signature of the owner of the subject property (or agents otherwise identified in MCC 17.122.040). Francisco Villalobos signed the application for the variance. The criterion is met.
10. The proposed partitioning would serve six (6) dwellings served from a private easement, Happy Valley Way SE. Marion County Code 17.110.800 limits the number of dwellings served by a private road to four (4) dwellings. Applicant seeks a variance to allow two additional dwellings to be served by Happy Valley Way SE. The area of the proposed partitioning does not have direct access to a public roadway.
11. The director, planning commission, hearings officer, or board may permit and authorize a variance when it appears from the application and facts presented that the proposal satisfies the variance criteria listed in MCC 17.122.020(A).
12. MCC 17.122.010 (Power to Grant Variances) provides: Subject to the restrictions and provisions contained in this title, the director, planning commission, hearings officer or board shall have the power to vary or modify the strict application of any of the standards of this title in any case where such strict application would result in practical difficulties or unnecessary hardships with reference to requirements governing: lot area, lot width, percentage of lot coverage, and number of dwelling units or structures permitted on a lot, standards when limits for an adjustment in MCC 17.116.030 are exceeded. Variances to allow uses or new uses not otherwise allowed are prohibited. Variance to criteria and definition are also prohibited.

MCC 17.110.800 (Dwellings and All Other Buildings To Be Accessible to Public Street) provides: Every dwelling shall be situated on a lot having direct access by abutting upon a public street or a pre-existing private driveway of a width not less than 20 feet. A private drive shall not serve more than four dwelling units unless the parcels, on which

PARTITION / VARIANCE 25-013

Francisco Villalobos

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those units are proposed to be placed, were established with the approval of Marion County in accordance with State Law and Marion County ordinances prior to May 1, 1977, or were approved under Chapter 17.121 MCC Planned Development.

Appellant rejects the interpretation and policy implemented by Marion County Planning that a variance can be sought to allow more than four dwellings to be served by a private road. Appellant argues that MCC 17.122.010 is silent as to the limitation of the number of dwellings per easement standard, yet specific with regard to listing matters about which standards may be varied. Appellant argues that a legislative act is required to modify MCC 17.110.800 to allow its variance.

As evidenced by prior orders submitted by Applicant, MCC 17.122.010 has been interpreted to allow a variance to allow more than four dwellings to be served by a private road. In practice, the County has treated requests to serve more than four dwellings on a private road as a variance and evaluated them under MCC 17.122.020 (hardship, unusual circumstances, minimum necessary, no significant adverse effects, intent maintained).

Appellant Pagel advances an *expressio unius est exclusio alterius* argument (the expression of one thing implies the exclusion of others). Courts have treated this maxim as a presumption that yields to context. If the inclusion of terms is illustrative, then the specific expression is not intended to exclude another term. The inclusion of “catch all” language like “and other” and “otherwise” can also defeat the construction that the list is intended to be exhaustive.

MCC 17.122.010 does include language that provides authority for the hearings officer to allow a variance for a “any of the standards of this title.” The language “any of the standards of this title” is even broader than a “catch all” phrase and references a broader category of permissible variances than the non-exhaustive listing in the code.

Further, the AR zone has a limitation on the amount of land available for development, and the allowance of a variance to reach density allowed in the zone is critical to reduce the pressure for expanding the zone into adjacent resource zones.

Applicant provided an assessor’s map of the surrounding area which shows that the area has been repartitioned into smaller lots during the last 20 years, which Applicant argues is a more efficient use of the land in the AR zone. Applicant suggests that approval of the variance will accomplish the infill of the area in an efficient manner.

It is the determination of the hearings officer that the policy and practice of the County is reasonable and supported by the provisions of MCC 17.122.010 to allow a variance for more than four dwellings to be served by a private road.

MCC 17.122.010 gives the county authority to vary “any of the standards of this title” (not uses). A “standard of this title” is access standard. The four-dwelling limit on a

private drive is a standard stated at MCC 17.110.800. As a standard, the four-dwelling limit can be varied if the variance criteria are satisfied.

13. The variance criteria listed in MCC 17.122.020(A) must be met by the Applicant:

1. *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of this title; and*

The only access to the subject property is off Happy Valley Wy SE. There is no direct access to a public roadway. Applicant states that the granting of this variance will effectively utilize this residential land and will keep development from encroaching on nearby resource zones.

Without the variance to MCC 17.110.800, Applicant would not be able to partition and develop the land to the maximum density allowed by the AR zone. The criterion is met.

2. *There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and*

The AR designation for this neighborhood is intended for use with acreage homesites. Marion County approved the partitioning of this land under Partition Plat P 95-059 through land use case P94-051. At the time, due to existing development in the area, there was not an opportunity to expand any public roadway for access to the newly created parcels.

A private roadway, Burton Pl SE, had already been established, eliminating the possibility for a public roadway on Burton Place SE; therefore, Happy Valley Wy SE was created.

This situation presents an unusual circumstance concerning the amount of partitionable land on the subject parcel, which can only be addressed through the granting of a variance. The development goals for the area and the code limiting access to more than four homes are in contradiction, a situation that was established during the original subdivision of the neighborhood. The most reasonable option for development is to permit a variance to MCC 17.110.800. The criterion is met.

3. *The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*

The proposed use is to allow the creation of three lots, maximizing the rural residential capacity in the AR zone which requires a 2-acre minimum. This degree of variance is the minimum to permit the proposed development. The criterion is met.

4. *The variance will not have a significant adverse effect on property or improvements in the neighborhood of the subject property; and*

The roadway currently serves four lots, each containing a dwelling. This rural area has undergone multiple partitioning efforts over the past 40 years. Therefore, the addition of two homesites off Happy Valley Wy SE appears to align with the development goals of this neighborhood.

Both Burton Pl SE and Happy Valley Wy SE are paved and well-maintained roadways. Additionally, since the uses of the newly created parcels will not be commercial or industrial, the traffic impact on these private roads will be minimal.

The variance will allow the roadways use by two homesites, which should not have a significant or adverse impact. There is no evidence of unreasonable additional noise, traffic, visibility, or other issues that could impact the neighborhood. The criterion is met.

5. *The variance will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

Requests for Comments were sent out to various agencies regarding the proposed partition and variance. The Marion County No. 1 Fire District did not indicate any access or safety concerns. Any requirements for fire turnarounds may be placed by the fire district at the time building permits are applied for. Each lot will have to provide evidence of an approved septic system and will have to enter into an access and utility easement agreement for the maintenance of the easement. It appears that the proposed variance to allow six dwellings to be served by Happy Valley Wy SE would not adversely affect public health or safety. The criterion is met.

6. *The variance will maintain the intent and purpose of the provision being varied.*

Appellant argues that because the County no longer permits a private drive off of another private drive as a safety concern, this variance should not be allowed (with the risk of damage and injuries stated in Appellant's August 7 written comments).

Applicant states that the restriction on the number of dwellings that can be served off a private easement was developed with the original adoption of the zoning ordinance. Applicant states that in this case, the number of dwellings being served will increase from 4 to 6 and with agreements for maintenance of the easements in place, there should not be any significant impact to adjoining properties.

Allowing Burton Pl SE and Happy Valley Wy SE to serve two additional dwellings in its current condition would not exceed its capacity. Public Works LDEP did not make any requirements regarding improvements on these roads, insinuating the roadways can handle the newly proposed development. Although concerns about "increased risk of

damage or injury” is noted, there is not sufficient evidence that the variance would result in safety issues or modify the intent and purpose of the provision. The criterion is met.

Objection on Constitutional Grounds

14. Appellant Victor Pagel argues that the “effect of this governmental decision is to reduce the value of [his] land, without just compensation to him. Mr. Pagel’s argument essentially claims that approval of this land use application results in a “taking” of his property in violation of the Fifth Amendment to the United States Constitution and Article I, Section 18 of the Oregon Constitution. To succeed with this claim, Mr. Pagel government physically occupies the land, or if the decision requires the dedication of land (e.g. for a road) without a clear nexus and proportionality. See, e.g. *Nollan v. California Coastal Comm’n*, 483 US 825 (1987) and *Dolan v. City of Tigard*, 512 US 374 (1994).

Mr. Pagel alleges that the value of his land is reduced solely in order to increase the value of Applicant’s land. Mr. Pagel, has a reasonable concern about the easement, but it is a concern about easements in general. There is no indication that use of the roadway by two additional dwellings will cause a measurable loss to Mr. Pagel’s property value.

There is no sufficient evidence to indicate that a variance to allow more than four dwellings to use a private roadway is a taking of Mr. Pagel’s property without a clear nexus or proportionality.

The hearings officer recognizes that Mr. Pagel has raised a constitutional issue in this forum. However, Applicant meets the applicable criteria for a partition and variance under the Marion County Code, and there is no indication that application of the relevant provisions is unconstitutional.

15. Based on the above findings, the proposed partitioning complies with the above criteria and is therefore, **APPROVED**, subject to conditions stated herein which are necessary for the health and safety.

VII. Order

It is hereby found that Applicant has met his burden of proving the applicable standards and criteria for approval of a variance application. Therefore, the partition and variance application is APPROVED, with the following conditions:

1. Conditions required by the Marion County Surveyor’s Office:
 - a. Parcels must be surveyed and monumented.
 - b. Per ORS 92.050, plat must be submitted for review.
 - c. Checking fee and recording fees required.
 - d. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor’s Office, which may require additional updated reports.

2. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum of two acres in size.
3. The northernmost 2-acre parcel shall be addressed: 2625 Happy Valley Wy SE.
The southernmost 2-acre parcel shall be addressed: 2675 Happy Valley Wy SE.
The parent parcel, the existing 4-acre parcel, shall remain: 2628 Happy Valley Wy SE.
Addresses will be finalized at the time that building permit applications are reviewed and may change if alterations are made to the property or nearby properties.
4. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

VIII. Other Permits

It is advised that the use of the property proposed in this Application may require additional permits from other local, state or federal agencies the Marion County land use review and approval process does not take the place of or relieve the Applicant of responsibility for acquiring such other permits or satisfy any restrictions or conditions thereon the land use permit approved here and does not remove alter or impair in any way covenants or restrictions imposed on this property by deed or other instrument.

It is recommended that the agencies mentioned in Finding of Fact No. 5 herein be contacted to identify restrictions or necessary permits. Applicant is advised of the following:

- a. Prior to recording the plat, all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
- b. The applicant should contact the Marion County No. 1 Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
- c. Applicant is advised to check with Marion County Building Inspection for any building or septic requirements.

IX. Effective Date

The application approved herein shall become effective on the 25th day of September, 2025, unless the Marion County Board of Commissioners, on its own motion or by appeal timely filed, is asked to review this order in case of board review, this order shall be stayed and shall be subject to final action as is taken by the board.

X. Appeal Rights

An appeal of this decision may be taken by anyone aggrieved or affected by this order. An appeal must be filed with the Marion County Clerk (555 Court St. NE, Suite 2130, Salem, OR 97301) by 5:00 p.m. on the 24th day of September, 2025. The appeal must be in writing, must be filed in duplicate, must be accompanied by a payment of \$500, and must state wherein this order fails to conform to the provisions of the applicable ordinance. If the Board denies the appeal, \$300 of the appeal fee will be refunded.

DATED this 9th day of September, 2025.



Jill F. Foster

Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Francisco Villalobos
2628 Happy Valley Way SE
Salem, OR 97317

Tax Collector (via email)
NMcVey@co.marion.or.us
ADhillon@co.marion.or.us

Norman Bickell
3322 42nd Avenue SE #771
Salem, OR 97317

Surveyor's Office (via email)
KInman@co.marion.or.us

Victor Pagel
7826 Burton Place SE
Salem, OR 97301

Fire District: (via email)
salemfire@cityofsalem.net

Kathy Cervantes
2532 Rose Garden St NE
Salem, OR 97301

Planning Division (via email)
breich@co.marion.or.us
abarnes@co.marion.or.us
jspeckman@co.marion.or.us
ediaz@co.marion.or.us

Area Advisory Committee #3:
None

Building Inspection (via email)
pwolterman@co.marion.or.us
Kaldrich@co.marion.or.us
CTate@co.marion.or.us

Roger Kaye
Friends of Marion County
P.O. Box 3274
Salem, OR 97302

Public Works LDEP Section (via email)
jrasmussen@co.marion.or.us
mcldcp@co.marion.or.us
JShanahan@co.marion.or.us

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

School District: (via email)
Fridenmaker_david@salkeiz.k12.or.us

Pudding River Watershed Council (via email)

anna@puddingriverwatershed.org
cleanpuddingriver@gmail.com

County Agencies Notified:

Code Enforcement (via email)
CGoffin@co.marion.or.us

Assessor's Office (via email)
assessor@co.marion.or.us

State Agencies Notified: (via email)
Mike.I.mccord@wrdd.state.or.us
Gregory.j.wacker@oregon.gov

By mailing to them copies thereof. I further certify that said copies were placed in a sealed envelope addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon on the 9th day of September, 2025, and that the postage thereon was prepaid.

A handwritten signature in blue ink, appearing to read "Amanda Wilson", written over a horizontal line.

Administrative Assistant to the
Hearings Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: North Fork Guardrail Improvements IGA

Management Update/Work Session Date: 9/2/2025 Audio/Visual aids

Time Required: 5 minutes Contact: Steven Preszler Phone: 971-375-8108

Requested Action:
Approve Supplemental Project Authorization 73000-00029498 with the Oregon Department of Transportation (ODOT) for the North Fork Guardrail Improvements Project in the amount of \$2,133,909.05.

Issue, Description & Background:
Public Works has been working to improve safety along North Fork Road through signing, upgrading existing guardrail, and installing new guardrail where warranted. The County applied for and received 2021 Federal Lands Access Program (FLAP) funds to add guardrail at ten locations totaling just over 1 mile. This guardrail will be placed at the locations where run-off incidents would be expected to be most severe.

Financial Impacts:
The total project cost is estimated to be \$2,133,909.05. Federal Funds will cover the entire cost of the project up to this total. There is no required County Match for this project and no financial impact to other County Departments.

Impacts to Department & External Agencies:
There are no impacts to other County Departments.

List of attachments:
Supplemental Project Authorization 73000-00029498

Presenter:
Ryan Crowther

Department Head Signature:
Brian Nicholas Digitally signed by Brian Nicholas
Date: 2025.08.25 09:51:32 -07'00'

Contract Review Sheet

Intergovernmental Agreement

PW-6818-25

Title: North Fork Road Guardrail Improvements

Contractor's Name: Oregon Department of Transportation

Department: Public Works Department

Contact: Janet Wilson

Analyst: Kathleen George

Phone #: (503) 566-4139

Term - Date From: Execution

Expires: December 31, 2035

Original Contract Amount: \$ 2,133,909.05

Previous Amendments Amount: \$ -

Current Amendment: \$ -

New Contract Total: \$ 2,133,909.05

Amd% 0%

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs Grants QRFs)

Department

Description of Services or Grant Award

Public Works has been working to improve safety along North Fork Road through signing, upgrading existing guardrail, and installing new guardrail where warranted. The County applied for and received 2021 Federal Lands Access Program (FLAP) funds to add guardrail at ten locations totaling just over 1 mile. This guardrail will be placed at the locations where run-off incidents would be expected to be most severe.

This project is to construct approximately 5,350 feet of guardrail and shoulder where needed at ten (10) locations along North Fork Road SE.

The total project cost is estimated to be \$2,133,909.05. Federal Funds will cover the entire cost of the project up to this total. There is no required County Match for this project and no financial impact to other County Departments.

Desired BOC Session Date: 9/24/2025

Contract should be in DocuSign by: 9/3/2025

Agenda Planning Date: 9/11/2025

Printed packets due in Finance: 9/9/2025

Management Update: 9/2/2025

BOC upload / Board Session email: 9/10/2025

BOC Session Presenter(s) Ryan Crowther

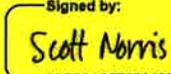
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REQUIRED APPROVALS

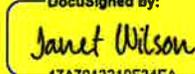
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Date

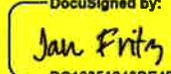
Finance - Contracts

Signed by:

80CDBA8F708240B...
8/29/2025
Date

Legal Counsel

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9/2/2025
Date

Contract Specialist

DocuSigned by:

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8/29/2025
Date

Chief Administrative Officer

A168-G030424

Oregon Department of Transportation
 LOCAL AGENCY CERTIFICATION PROGRAM
 Supplemental Project Authorization No. 73000-00029498:1

Under the authority of Certification Program Agreement No. 73000-00029498 (“Program Agreement”) between the **Oregon Department of Transportation** (“State” or “ODOT”) and **Marion County** (“Certified Agency”), dated October 14, 2024, which is hereby incorporated by reference, the Parties agree to Certified Agency delivering the “Project” shown on the Project Details Table in Section A below (“Project”) as agreed to herein.

A. PROJECT DETAILS TABLE

SPA NUMBER	#1
Project Key Number:	23558
Project Name:	North Fork Road Guardrail Improvements (Marion County)
Project Description:	Construct approximately 5,350 feet of guardrail and shoulder where needed at ten (10) locations along North Fork Road SE.
Funding Award Program:	Funds have been awarded under the Western Federal Land Highway Division-Federal Lands Access Program and will be applied in accordance with Paragraph V.3.f of the Program Agreement.
Project End Date:	Certified Agency must complete the Project by: 12/31/2035
Project Location and Jurisdiction:	North Fork Road SE is a part of Certified Agency’s road system under the jurisdiction and control of Certified Agency.
FUNDING DETAILS	
Certified Agency’s Unique Entity Identifier:	FUAKHMJE2437
Certified Agency to report executive compensation information per Federal Transparency Act (see Exhibit B):	No
Award is for Research and Development (R&D) as defined in 2 CFR 200.1:	No
Certified Agency Indirect Cost Rate(s):	7.9%
Pro-rated Federal Share Percentage:	100%
Certified Agency Required Match Percentage:	0%
Federal Funds:	\$2,133,909.05
State Funds	\$0
Certified Agency Funds	\$0
Other Funds:	\$0
Approved In-kind Contribution:	\$0
Total Project Cost	\$2,133,909.05
INFORMATIONAL DETAILS	
DATA	

Marion County / ODOT
 Agreement No. 73000-00029498:1

ODOT’s preliminary estimated costs for oversight and other ODOT services for Project phases covered by this Supplemental Project Authorization, applied in accordance with Section B, Paragraph 3 below:		\$5,000.00
APPLICABLE PROVISIONS		
Standard Provisions: The following exhibits to the Program Agreement apply to this Project if marked “Yes” below (“No” indicates the exhibit does not apply to this Project).		
Yes/No	Exhibit #	Description
Yes	Exhibit B:	Standard Provisions: Federal Transparency Act Subaward Reporting
Yes	Exhibit C:	Standard Provisions: Contract Insurance
Yes	Exhibit D:	Standard Provisions: Americans with Disabilities Act Compliance
No	Exhibit E:	Standard Provisions: Local Bridge Projects
Yes	Exhibit F:	Standard Provisions: Right of Way Services
Special Provisions: The following attachment(s) and modifications to the Program Agreement apply(ies) to this Project if marked “Yes” below (“N.A.” indicates “not applicable”).		
Yes/N.A.	Attachment #	Description
Yes	Attachment 1:	Project Vicinity Map
N.A.	Attachment 2:	N.A.
Yes	Also see Section B, Paragraph 8 for Project-specific modifications to the Program Agreement that apply to this Project.	

B. SUPPLEMENTAL PROJECT AUTHORIZATION TERMS

1. **Applicable Provisions:** Except as otherwise modified by the terms of this Supplemental Project Authorization, the Project is subject to the terms and conditions of the Program Agreement, including the Standard Provisions and Special Provisions specified in the Project Details Table above, which are incorporated into this Supplemental Project Authorization by reference as though fully set forth herein.
2. **Scope:** The Project includes preliminary engineering and construction of guardrail and shoulder where needed at ten (10) locations along North Fork Road SE, as shown on Attachment 1 – Project Vicinity Map.
3. **ODOT Costs:** The Parties agree that ODOT will perform risk-based Project oversight in accordance with the Program Agreement. A preliminary estimate for the cost of ODOT’s work is shown above in the Project Details Table under Informational Details. The Parties agree that ODOT services to be performed in excess of this preliminary estimate shall be addressed as provided in Paragraph V.3 Subsection g. of the Program Agreement. Certified Agency understands that ODOT’s costs are estimates only and Certified Agency agrees to pay ODOT’s actual costs incurred per the Terms of this Supplemental Project Authorization. On a quarterly basis, ODOT will provide Certified Agency a statement of costs expended by ODOT.
4. **Funding:** A combination of federal, state, and local funds may be expended on the Project as detailed in the Project Details Table above, subject to the limitations and obligations set forth in

Marion County / ODOT
Agreement No. 73000-00029498:1

the Program Agreement and this Supplemental Project Authorization. Federal and State funds for a project shall be limited to the amount shown in the Funding Details section of the Project Details Table above.

- a. Certified Agency guarantees the availability of Certified Agency funding in an amount required to fully fund Certified Agency's share of the Total Project Costs, as shown in the Project Details Table, and in accordance with the Funding provisions in Paragraph V.3 of the Program Agreement.
 - b. Certified Agency understands and agrees that federal funding for this Project is contingent upon FHWA's approval of each funding request. Any work performed outside the period of performance approved by FHWA or outside the Project Scope will be considered non-participating and paid for at Certified Agency expense.
 - c. ODOT will submit requests for federal funding authorizations to FHWA by Project phase. The ODOT Project Contact or designee will provide Certified Agency with a written notice to proceed for each Project phase when FHWA approval has been secured and funds are available for expenditure on the Project.
 - d. With the notice to proceed, ODOT will provide Certified Agency with a copy of the USDOT FHWA Federal Aid Project Agreement between ODOT and FHWA for this Project, which contains the information required of pass-through entities by 2 CFR 200.332(a)(1).
5. Invoicing: Certified Agency shall submit invoices for Project progress billings in accordance with the invoicing provisions in Paragraph V.5 of the Program Agreement.
6. Period of Performance:
- a. **Begin and End Dates**: The Project period of performance begins when both the initial FHWA Project authorization has been received by ODOT and a notice to proceed for the first phase of the Project has been issued by the ODOT Project Contact. The Project period of performance ends on the Project End Date shown in the Project Details Table. All Project work must be completed within the period of performance.
 - b. **Project End Date Changes**: The Project End Date may be changed upon written approval by the ODOT Project Contact, which shall be incorporated by reference into this Supplemental Project Authorization. To extend the Project End Date, Certified Agency shall submit a written request to the ODOT Project Contact as soon as Certified Agency becomes aware that a schedule change is necessary, but no less than sixty (60) calendar days prior to the authorized Project End Date. The ODOT Project Contact will coordinate with ODOT Program and Funding Services to seek authorization from FHWA prior to approving the extension request. FHWA authorization for extensions is not guaranteed. Any work performed outside the period of performance authorized by FHWA will be nonparticipating and paid for at Certified Agency expense.
7. Project Useful Life: The useful life of the Project is 20 years.
8. Project-Specific Modifications: For purposes of this Project only, the Parties agree to the following Project-specific provision, which supplements the terms and conditions of Paragraph V.3 of the Program Agreement:

Marion County / ODOT

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Any proposed changes to the approved and programmed Project require coordination with FHWA. Certified Agency shall submit proposed project changes directly to the FHWA Field Operations Team Leader, Benjamin Haines via email at benjamin.haines@dot.gov and copy the ODOT Project Contact, ODOT FLAP Coordinator, Hope Derrickson at hope.derrickson@odot.oregon.gov, and ODOT Federal Aid Funding Manager, Katie Parlette at katie.m.parlette@odot.oregon.gov. Specific examples of changes to be coordinated with FHWA include but are not limited to the following:

- Any scope change from the initial programmed project, including design element changes.
- Schedule changes which will impact the fiscal year when funds are programmed.
- Any changes to the budget which impact the FLAP programmed amount
- Delivery agent changes.

C. PROJECT CONTACTS, SIGNATURE AUTHORITIES, COUNTERPARTS, ACKNOWLEDGEMENT

1. Each Party's Project Contact is shown on the signature page of this Supplemental Project Authorization. Each Party agrees to notify the other Party in writing of any contact information changes during the term of this Supplemental Project Authorization.
2. Each Party certifies and represents that the individuals signing this Supplemental Project Authorization have been authorized to enter into and execute this Supplemental Project Authorization on behalf of the Party under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind the Party.
3. This Supplemental Project Authorization may be executed in several counterparts (facsimile or otherwise) 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 Supplemental Project Authorization so executed shall constitute an original. The Parties may use Electronic Signatures in accordance with Paragraph VII.15. of the Program Agreement.
4. This Project is in the 2024-2027 Statewide Transportation Improvement Program, (Key No. 23558) that was approved by the Oregon Transportation Commission on July 13, 2023 (or subsequently approved by amendment to the STIP).

5. Certified Agency Acknowledgement:

Certified Agency's signing representatives certify that by signing this Supplemental Project Authorization, they have read the Program Agreement, including the following exhibits that apply to this Supplemental Project Authorization as shown in the Project Details Table in Section A above.

Marion County / ODOT
Agreement No. 73000-00029498:1

THE PARTIES, by execution of this Supplemental Project Authorization, hereby acknowledge that their signing representatives have read this Supplemental Project Authorization, understand it, and agree to be bound by its terms and conditions.

MARION COUNTY, acting by and through its elected officials

By (see attached Marion County Signature Page)

Title _____

Date _____

LEGAL REVIEW APPROVAL

(If required by Certified Agency's process)

By _____

Certified Agency Legal Counsel

Date _____

Certified Agency Project Contact:

Steven Preszler, PE
Project Manager
Marion County Public Works
5155 Silverton Road NE
Salem, Oregon 97305
(503) 365-3157
spreszler@co.marion.or.us

ODOT Project Contact:

Valerie Greenway, Area 3
Senior Transportation Project Manager 455
Airport Road SE, Building B
Salem, Oregon 97301
(971) 304-5021
Valerie.Greenway@odot.oregon.gov

STATE OF OREGON, acting by and through its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____

Certification Program Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

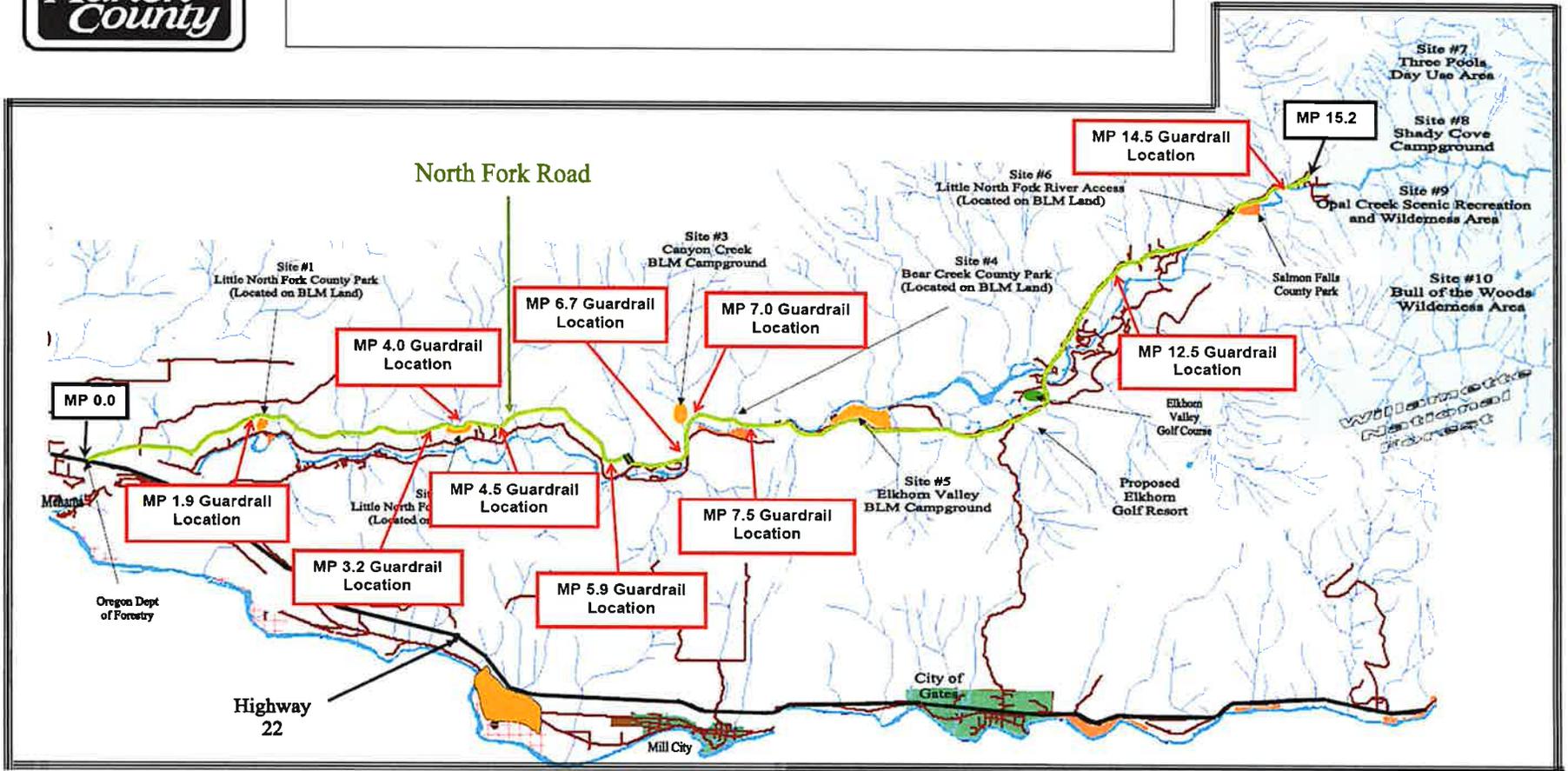
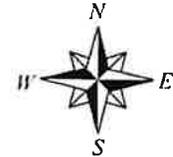
By Karen Clevering, via email
Assistant Attorney General
Date August 7, 2025

Marion County / ODOT
Agreement No. 73000-00029498:1

Attachment 1 Project Vicinity Map



2021 Oregon Federal Lands Access Program
North Fork Road Guardrail Improvements
Federal Land Access Sites & Project Locations





MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Business Services

Title: Delegating authority to sign documents associated with the acquisition of real property

Management Update/Work Session Date: September 16, 2025 Audio/Visual aids

Time Required: 5 minutes Contact: Tamra Goettsch Phone: x3200

Requested Action: Consider approval of an order that delegates authority to sign documents associated with the acquisition of real property located in Salem, Oregon

Issue, Description & Background: The county is interested in purchasing two properties in Salem to accommodate operations for two of its programs.

Financial Impacts: The two programs cover the cost of the property's purchase price.

Impacts to Department & External Agencies: The order would authorize any commissioner, or the county's chief administrative officer to sign documents associated with the acquisition of the properties.

List of attachments: Board order

Presenter: Tamra Goettsch

Department Head Signature: Tamra Goettsch Digitally signed by Tamra Goettsch Date: 2025.09.23 16:20:51 -07'00'

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the matter of delegating authority to sign)
documents associated with the acquisition of)
real property located in Salem, Oregon.)

ORDER No. _____

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on Wednesday, September 24, 2025

WHEREAS, the board is interested in acquiring real property located at 4707 and 4723 Silverton Rd. NE in Salem; and

WHEREAS, in order to facilitate the timely execution of documents needed to pursue the acquisition of 4707 and 4723 Silverton Rd. NE, the board desires to delegate authority to execute documents associated with the acquisition to any one of the members of the board; and if any one of the members of the board is not available, then to the Chief Administrative Officer; now, therefore,

IT IS HEREBY ORDERED that any one of the members of the board is authorized to execute documents associated with the acquisition of 4707 and 4723 Silverton Rd. NE in Salem; and if any one of the members of the board is not available, then the Chief Administrative Officer is authorized to execute any such documents.

DATED at Salem, Oregon, this _____ day of _____ 20____.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: Wednesday, September 24, 2025 9:00am

Department: Health & Human Services

Title: Ambulance Service Area (ASA) Committee Appointments

Management Update/Work Session Date: 9/2/2025 Audio/Visual aids []

Time Required: 5 Contact: Samantha Andress Phone: x4903

Requested Action: Appoint Jordan Donat, Toni Grimes, and Timothy Morris to the ASA Committee.

Issue, Description & Background: EMS Division Chief Timothy Morris with MCFD ASA 4, Chief Jordan Donat with Turner FD ASA 8 and Toni Grimes with Woodburn Ambulance ASA 5 are applying for vacant positions on the ASA. The Ambulance Service Area (ASA) Advisory Committee represents a cross-section of entities including but not limited to public, private, rural, and urban. Additional members from various stakeholder groups such as healthcare consumers, hospital/health systems, health professionals, and 9-1-1 centers may be sought for appointment from time to time as the committee or board identifies a need. The purpose of the ASA Advisory Committee is to review and make recommendations to the Board of Commissioners regarding the selection criteria for determining a franchise to provide emergency ambulance service and to periodically review the Ambulance Service Area Plan. Advisory Committee members serve 3-year staggered terms which expire on +

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Applications, proposed roster, board orders

Presenter: Katrina Griffith, John Kubasak

Department Head Signature: Ryan Matthews Digitally signed by Ryan Matthews Date: 2025.09.05 09:41:08 -07'00'



Advisory Board Application

Applicant's Name: **Timothy Morris**
Adv. Board: **Ambulance Service Area Adv. Committee**
City of Residence: **N/A**
Occupation: **EMS Division Chief, Marion County Fire District 1**
Application Rcd: **May 14, 2025**

Occupation/Business Information:

EMS Division Chief

The reason I am applying:

To serve in representation for MCFD1.

More about my personal and professional interests:

Professional representation for the ASA that I serve

Tell us more about your community involvement:

None

Previous board service at Marion County:

None

Qualifications and Skills:

EMS Division Chief at MCFD1

More about yourself and why you are applying:

I hope to continue the professional representation of MCFD1 regarding decisions and initiatives that affect the ASA for MCFD1.

Signature

Agreement Statement:

I give my permission for the named references to be contacted, either verbally or in writing. All the information on this application is true to the best of my knowledge and I understand I am applying for a volunteer position with Marion County.

I understand that appointed members of a Marion County advisory board, commission, committee, or council are considered public officials under Oregon law. Marion County will provide orientation and more information upon appointment.

I Agree *



Advisory Board Application

Applicant's Name: **Jordan Donat**

Adv. Board: **Ambulance Service Area Advisory Committee**

City of Residence: **Turner**

Occupation: **Chief, Fire Turner District**

Application Rcd: **August 15, 2025**

The reason I am applying:

I am applying for this advisory board to serve my community in a broader fashion. I serve as the Fire Chief for Turner Fire District, and we provide an ambulance service to our community and have an Ambulance Service Area within Marion County. Serving on the ASA Advisory Committee will allow me to better understand the Ambulance services in Marion County, how they can work together within the system and cooperatively working with other ambulance services to provide a better service to our community.

More about my personal and professional interests:

I have served with Turner Fire District for 23 years. I currently serve as the Fire Chief. I am passionate about Fire and EMS as a whole and believe that serving on the ASA Advisory Committee will provide opportunities for me to serve not only my community, but other communities within Marion County.

Tell us more about your community involvement:

Most of my community service or participation is connected to the Turner Fire District, where I have served for 13 years as a Volunteer, and as a paid employee for the last ten years. I have served in virtually every operational position at TFD and am currently the Fire Chief. I have served on Urban Growth and Transportation planning committees with the City of Turner and have served on a Long-range Planning Committee with the Cascade School District. My wife and I are active in our church, and we participate in and support youth sports in our community including Cascade Youth Basketball and Cascade Little League.

Previous board service at Marion County:

I have not served on any boards, commissions, committees, councils or task forces with Marion County, but I have served on an Urban Growth Boundary committee, and a Transportation Planning committee with the City of Turner. I also recently served on a Long-range Planning committee with the Cascade School District.

Qualifications and Skills:

I am currently serving as Fire Chief at the Turner Fire District. I am a licensed Advanced Emergency Medical Technician (AEMT) in the State of Oregon. I have been in Fire and EMS for over twenty years. I believe that my operational experience working on an ambulance and my administrative experience managing an ambulance service in our community, provide me with a unique skill set that would be valuable to the committee, and the communities within Marion County.



Advisory Board Application

More about yourself and why you are applying:

I am an active community member who has had opportunities to serve my community in a number of really rewarding ways. I believe that serving on the ASA Advisory Committee will be a great opportunity to broaden my ability to serve. I enjoy serving, especially in the Fire and EMS arenas, and I would enjoy the opportunity to serve the larger community of Marion County on the ASA Advisory Committee.

Signature

Agreement Statement:

I give my permission for the named references to be contacted, either verbally or in writing. All the information on this application is true to the best of my knowledge and I understand I am applying for a volunteer position with Marion County.

I understand that appointed members of a Marion County advisory board, commission, committee, or council are considered public officials under Oregon law. Marion County will provide orientation and more information upon appointment.

I Agree *



Advisory Board Application

Applicant's Name: **Toni Grimes**
Adv. Board: **Ambulance Service Area Advisory Committee**
City of Residence: **Salem**
Occupation: **General Manager, Woodburn Ambulance**
Application Rcd: **August 4, 2025**

The reason I am applying:

I was informed of an upcoming vacancy representing ASA 5, Woodburn Ambulance. I have been the General Manager for Woodburn Ambulance for the last 15 years and feel that with my experience, I would be a good candidate for the position as I am responsible for regulatory oversight for my Agency.

More about my personal and professional interests:

I have worked in Emergency Medical Services for 39 years and have consistently advocated for maintaining progressive, evidence-based treatment modalities within our Agency. My interest in this advisory board stems from a commitment to not only advancing our internal practices but also ensuring compliance with County, State, and Federal regulations. This position would offer a valuable opportunity to learn from other agencies and contribute meaningfully to the improvement of our county EMS system.

Tell us more about your community involvement:

-Throughout the years at Woodburn Ambulance, I have worked as a field paramedic, a training officer, shift supervisor, and as a clinical manager before becoming the General Manager.

-Worked collaboratively with public health response during the H1N1 and Covid pandemics at the County and State level by creating and overseeing community outreach and developing protocols and procedures for EMS in testing and vaccine administration to the public.

-Member of the EMT Advisory Committee of the Oregon Medical Board for 6 years, 3 of which were in the capacity of Chair. This committee reviewed and recommended Scope of Practice changes for EMTs and Paramedics to the Oregon Medical Board.

-Developed scope of practice for the country of Sri Lanka, taught EMT Basic classes to volunteers, and advised on the developing EMS program in the Country. I was placed in Sri Lanka by Medical Teams International for approximately 1 month.

Previous board service at Marion County:

Not in an official capacity

Qualifications and Skills:

-Enrolled in a master's applied business analytics-currently paused due to family and work obligations

-Bachelor's in public health

-Oregon Paramedic license

-Experience in writing protocol and procedures for Oregon and at my current agency



Advisory Board Application

More about yourself and why you are applying:

I have dedicated nearly four decades to the field of Emergency Medical Services, serving in various roles that have given me deep insight at both the frontline perspective and at the administrative level. Throughout my career, I have remained committed to advancing patient care and ensuring agency accountability. Because of my experience I feel that I could contribute a grounded solutions-focused perspective that is beneficial to both County providers and our communities.

Signature

Agreement Statement:

I give my permission for the named references to be contacted, either verbally or in writing. All the information on this application is true to the best of my knowledge and I understand I am applying for a volunteer position with Marion County.

I understand that appointed members of a Marion County advisory board, commission, committee, or council are considered public officials under Oregon law. Marion County will provide orientation and more information upon appointment.

I Agree *

Marion County Ambulance Service Area Advisory Committee Members

Updated August 2025

Name	ASA Region	Agency	Term Begins	Term Ends
Freitag, Danny	ASA 7	Santiam Memorial Hospital Ambulance	1/31/2023	1/31/2026
Ehrmantraut, Frank	ASA 10	Polk County Fire District	1/25/2023	1/31/2026
Amsberry, Kyle	ASA 1	Salem Fire Department	1/31/2023	1/31/2026
Bensema, Sherry	ASA 6	Lyons Rural FPD	1/25/2023	1/31/2026
Butler, Brian	ASA 2	Keizer Fire District	2/7/2024	1/31/2027
***Morris, Tim	ASA 4	Marion County Fire District #1	2/7/2024	1/31/2027
Peterson, Melvin	N/A - PSAP	WVCC	2/7/2024	1/31/2027
Baird, Shawn	ASA 5	Woodburn Ambulance Service, Inc.	2/7/2024	1/31/2027
***Grimes, Toni	ASA 5	Woodburn Ambulance Service, Inc.	2/7/2024	1/31/2027
Mullen, Dan	ASA 3	St. Paul Rural Fire Protection District	1/22/2025	1/31/2028
***Donat, Jordan	ASA 8	Turner Rural Fire Protection District	1/22/2025	1/31/2028
McClung, Stephanie	ASA 9	Jefferson Rural Fire District	1/22/2025	1/31/2028
Walker, Jim	N/A - Fire Department	Woodburn Fire District	1/22/2025	1/31/2028
Griffith, Katrina	N/A - Ex Officio	Marion County HHS	N/A	N/A
Kubasak, John	N/A - HHS Staff	Marion County HHS	N/A	N/A
Andress, Samantha	N/A - HHS Staff	Marion County HHS	N/A	N/A

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY

In the matter of Appointing)
Timothy Morris to the Ambulance)
Service Area Advisory Committee)

ORDER No. _____

This matter came before the Marion County Board of Commissioners for consideration during its regularly scheduled public meeting on Wednesday, September 24, 2025.

WHEREAS, the board finds that Marion County’s Code 5.20.200 requires that members of the Ambulance Service Area (ASA) Advisory Committee be appointed by and serve at the pleasure of the board for a term not to exceed three years; and

WHEREAS, the board finds that the ASA Administrator recommends that Timothy Morris is qualified and willing to serve on the Ambulance Service Area Advisory Committee; now, therefore,

IT IS HEREBY ORDERED that Timothy Morris is appointed by the board as an ASA Advisory Committee Member for a term ending January 31, 2027.

DATED at Salem, Oregon, this 24th day of September, 2025.

BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY

In the matter of Appointing)
Jordan Donat to the Ambulance)
Service Area Advisory Committee)

ORDER No. _____

This matter came before the Marion County Board of Commissioners for consideration during its regularly scheduled public meeting on Wednesday, September 24, 2025.

WHEREAS, the board finds that Marion County's Code 5.20.200 requires that members of the Ambulance Service Area (ASA) Advisory Committee be appointed by and serve at the pleasure of the board for a term not to exceed three years; and

WHEREAS, the board finds that the ASA Administrator recommends that Jordan Donat is qualified and willing to serve on the Ambulance Service Area Advisory Committee; now, therefore,

IT IS HEREBY ORDERED that Jordan Donat is appointed by the board as an ASA Advisory Committee Member for a term ending January 31, 2028.

DATED at Salem, Oregon, this 24th day of September, 2025.

BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY

In the matter of Appointing)
Toni Grimes to the Ambulance)
Service Area Advisory Committee)

ORDER No. _____

This matter came before the Marion County Board of Commissioners for consideration during its regularly scheduled public meeting on Wednesday, September 24, 2025.

WHEREAS, the board finds that Marion County’s Code 5.20.200 requires that members of the Ambulance Service Area (ASA) Advisory Committee be appointed by and serve at the pleasure of the board for a term not to exceed three years; and

WHEREAS, the board finds that the ASA Administrator recommends that Toni Grimes is qualified and willing to serve on the Ambulance Service Area Advisory Committee; now, therefore,

IT IS HEREBY ORDERED that Toni Grimes is appointed by the board as an ASA Advisory Committee Member for a term ending January 31, 2027.

DATED at Salem, Oregon, this 24th day of September, 2025.

BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/24/2025

Department: Health & Human Services

Title: Public Health IGA #170702 Environmental Health Services

Management Update/Work Session Date: 9/16/2025 Audio/Visual aids

Time Required: 10 mins Contact: Lyndsie Schwarz Phone: 503-584-4898

Requested Action:
Seeking approval of Amendment 2 to add outgoing funds in the amount \$125,000 to cover an increase in remittance amount that began July 1, 2025.

Issue, Description & Background:
Environmental Health Services (EH) contracts with Oregon Health Authority's Food, Pool, Lodging Health and Safety (FPLHS) Program to provide licensing and inspection services for restaurants, mobile food units, pools, and lodging establishments. Oregon Revised Statute (ORS) 624.150 requires a portion of license fees to be remitted to OHA to maintain FPLHS. EH shall remit to OHA approximately \$112,509 per year in quarterly amounts of \$28,127 (estimate based on 2024 total remittance).

Financial Impacts:
Adds outgoing funds \$125,000 for a new outgoing NTE of \$525,000 through June 30, 2029. Quarterly remittance payments will increase by \$3,015.00.

Impacts to Department & External Agencies: Health and Human Services anticipates no additional impacts to the department or external agencies.

List of attachments: Original, Am1, Am2

Presenter: Alisa Zastoupil

Department Head Signature:
DocuSigned by:
Ryan Matthews
7028A787656F458

Contract Review Sheet

Intergovernmental Agreement

HE-4243-21 - Am2

Title: **PH IGA #170702 Environmental Health Services**

Contractor's Name: **Oregon Health Authority**

Department: **Health and Human Services**

Contact: **Lyndsie Schwarz**

Analyst: **Chalyce MacDonald**

Phone #: **(503) 584-4898**

Term - Date From: **June 30, 2021**

Expires: **June 30, 2029**

Original Contract Amount: \$ **200,000.00**

Previous Amendments Amount: \$ **200,000.00**

Current Amendment: \$ **125,000.00**

New Contract Total: \$ **525,000.00**

Amd% **163%**

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: **50-0010 General Exemptions (IGAs and QRFs)**

Description of Services or Grant Award

Environmental Health Services (EH) contracts with Oregon Health Authority's Food, Pool, Lodging Health and Safety (FPLHS) Program to provide licensing and inspection services for restaurants, mobile food units, pools, and lodging establishments. Oregon Revised Statute (ORS) 624.150 requires a portion of license fees to be remitted to OHA to maintain FPLHS.

Am1 - Extends term to 06/30/2029 and add funds of \$200,000.

Am2 - Adds outgoing funds in the amount of \$125,000 to cover an increase in the remittance amount that began July 1, 2025, for a new NTE of \$525,000. Amends Section 8. Local Public Health Authority (LPHA) Responsibilities, Subsection 8.2 remittance licensing fees to remove June 30, 2029 end date from Pool/Spa program, adds for period beginning July 1, 2025, Foodborne Illness Prevention Program remittance in accordance with the amounts determined per the Final Remittance Memo issued April of each year, and updates fiscal biennium remittance factor 12.22% from ending June 30, 2029, to June 30, 2025.

Desired BOC Session Date: **9/24/2025**

Contract should be in DocuSign by: **9/3/2025**

Agenda Planning Date: **9/11/2025**

Printed packets due in Finance: **9/9/2025**

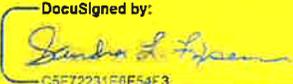
Management Update: **9/16/2025**

BOC upload / Board Session email: **9/10/2025**

BOC Session Presenter(s) **Alisa Zastoupil**

Code: **Y**

REQUIRED APPROVALS

DocuSigned by:

 05E7223169E54E3
 8/18/2025
 Date

DocuSigned by:

 B84A939ECCD02458
 8/19/2025
 Date

Signed by:

 80C98A8E70B240B
 8/19/2025
 Date

DocuSigned by:

 DC16351248DE4EC
 8/19/2025
 Date

Finance - Contracts

Contract Specialist

Legal Counsel

Chief Administrative Officer

Agreement #170702



**SECOND AMENDMENT TO OREGON HEALTH AUTHORITY
INTERGOVERNMENTAL AGREEMENT
FOR ENVIRONMENTAL HEALTH SERVICES**

This Second Amendment to Oregon Health Authority Intergovernmental Agreement for the Environmental Health Services, effective July 1, 2021, is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Marion County, (“LPHA”), each a “Party” and together, the “Parties.”

AMENDMENT

1. This Amendment is effective on June 30, 2025, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.
2. The Agreement is hereby amended as follows:
 - a. Section 8.2 is hereby amended as follows; deleted language is ~~struck through~~ and **new language is bold and underlined**:
 - 8.2 Not later than thirty (30) days following receipt of an invoice from OHA, remit the following licensing fees to OHA:
 - For the Tourist Facility program, fifteen percent (15%) of the state licensing fee or fifteen percent (15 %) of the county licensing fee, whichever is less, collected by county that quarter, in accordance with ORS 446.425.
 - For the fiscal biennium beginning July 1, 2021 and ending June 30, 2023 for the Pool/Spa program, in the amount of \$45 for each license issued by the LPHA in that quarter under ORS 448.035 or such other amount agreed upon by the parties;
 - For the fiscal biennium beginning July 1, 2023 ~~and ending June 30, 2029~~ for the Pool/Spa program, in the amount of \$90 for each license issued by the LPHA in that quarter under ORS 448.035 or such other amount agreed upon by the parties;
 - For the restaurant, bed and breakfast facility, commissary, mobile unit and warehouse licensing programs, a predetermined percentage of licensing revenue. For each biennium, this amount is determined by dividing OHA’s food program costs by the total projected statewide licensing revenue. Statewide revenue is calculated using marker fees set forth in ORS 624.490.
 - (Biennial cost of FIPP / Total projected licensing revenue for the biennium for all LPHAs= Remittance Factor (Represented as a percentage.)) FIPP’s biennial budget includes all program costs (i.e., staffing, fringe, travel, supplies, indirect costs, and statewide licensing software application). For the final invoice of a given fiscal year, LPHA may request an invoice in advance of the actual due date and pay the required licensing fees in advance.
 - **For the period beginning July 1, 2025 the Foodborne Illness Prevention Program, remittance will be submitted in accordance with the amounts determined per the Final Remittance Memo issued in April of each year.**

- o For the fiscal biennium beginning July 1, 2021 and ending June 30, 2023, the remittance factor is 12.81% of licensing revenue, based on licensing fees in statute. (Biennial cost of FIPP (\$2,328,526)/Total projected statewide licensing revenue for the biennium (\$18,179,220) =12.81%.)
- o For the fiscal biennium beginning July 1, 2023 and ending June 30, ~~2029~~2025, the remittance factor is 12.22% of licensing revenue, based on licensing fees in statute. (Biennial cost of FIPP (\$1,117,728)/Total projected statewide licensing revenue for the biennium (\$9,147,698) =12.22%.)

3. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
4. 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.

5. Signatures.

STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY

Signature: _____

Name: /for/ Andre Ourso

Title: Administrator

Date: _____

MARION COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: County signatures on following page

Name: Ryan Matthews

Title: Administrator

Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Not required per OAR 137-045-0050

REVIEWED BY:

Approved by Erica Van Ess on June 25, 2025, email in Agreement file.

Contract Review Sheet

Information Technology Agreement

JC-5737-25

Title: Case and Document Management System

Contractor's Name: Tyler Technologies, Inc.

Department: Justice Court

Contact: Justice Justin Kidd

Analyst: Chalyce MacDonald

Phone #: (503) 576-7149

Term - Date From: Execution

Expires: May 30, 2030

Original Contract Amount: \$ 559,808.00

Previous Amendments Amount: \$ -

Current Amendment: \$ -

New Contract Total: \$ 559,808.00 Amd% 0%

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 20-0261 Multi Step RFP

RFP# JC1274-23

Description of Services or Grant Award

Contract for implementation and support of a new cloud-based, configurable Case and Document Management System, which includes records management, payment processing, accounting, letter generation, scanning/importing, document storage and organization, robust searches, report generation, public records search and ordering, wedding appointment scheduling, and electronic form submission.

Desired BOC Session Date: 7/9 6/25/2025 10/1

Contract should be in DocuSign by: 6/4/2025

Agenda Planning Date: 6/12/2025

Printed packets due in Finance: 6/10/2025

Management Update: 6/10/2025

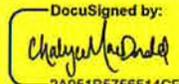
BOC upload / Board Session email: 6/11/2025

BOC Session Presenter(s) Gary Christofferson, Justice Justin Kidd

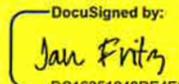
Code: Y

REQUIRED APPROVALS

DocuSigned by: 
 E4592AERCAA542C
 5/28/2025
 Date

DocuSigned by: 
 2A951B5756514CF
 6/16/2025
 Date

Signed by: 
 BOC984BE708240B
 6/4/2025
 Date

DocuSigned by: 
 DC16351248DE4EC
 6/13/2025
 Date

Legal Counsel

Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: Consider adoption of an administrative ordinance granting Zone Change/Comprehensive Plan Change/Administrative Review 25-001/Jerome P. Lackner

Management Update/Work Session Date: Audio/Visual aids []

Time Required: 5 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Consider adoption of an administrative ordinance granting Zone Change/Comprehensive Plan Change/Administrative Review 25-001/Jerome P. Lackner. Adopt the ordinance as written.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on May 15, 2025, and on June 30, 2025, issued a recommendation to approve the application. The Board held a duly noticed public hearing on the application on August 27, 2025, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the notice of adoption was given on September 17, 2025. The administrative ordinance is now set for formal adoption.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: [Handwritten Signature]

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

In the Matter of the) Case No. ZC/CP/AR25-001
Application of:)
Jerome P. Lackner)

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Jerome P. Lackner for a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel in the EFU (Exclusive Farm Use) zone located at the end of Wagner Lane SE in the 22600 block. (T9S; Range 2E; Section 18A; Tax lot 100).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on May 15, 2025, and on June 30, 2025, issued a recommendation to approve the zone change. Official notice was taken of the Planning Division file and the Hearings Officer's recommendation. The Board has considered all the evidence in the record, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Fact and Additional Findings of Fact and Conclusions of Law contained in Section V and VI of the Hearings Officer's decision dated June 30, 2025, contained in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested zone change from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling is hereby **GRANTED**, subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is identified on a map in Exhibit B, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to Marion County Code Section 17.110.660 to reflect the new zoning subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION V. Effective Date

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

SIGNED and FINALIZED this _____ day of _____, 2025, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

JUDICIAL NOTICE

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

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of:)	Case No. ZC CP AR 25-001
)	COMPREHENSIVE PLAN
JEROME P. LACKNER)	AMENDMENT / ZONE CHANGE /
)	ADMINISTRATIVE REVIEW

RECOMMENDATION

I. Nature of the Application

This matter comes before the Hearings Officer on the Application of Jerome P. Lackner for a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel in the EFU (Exclusive Farm Use) zone located at the end of Wagner Lane SE in the 22600 block (T9S; Range 2E; Section 18A; Tax Lot 100).

II. Relevant Criteria

The standards and criteria relevant to this Application are found in the Oregon Statewide Planning Goals, Marion County Comprehensive Plan Policies (Forest Land and Farm / Timber Land Policies), and Marion County Code Chapter 17, especially 17.123 (Zone Change Procedure), 17.136 (Exclusive Farm Use Zone), and 17. 139 (Farm / Timber Zone), MCC 138.060 (Special Siting Standards) (Unincorporated Community Industrial Zone).

III. Public Hearing

A public hearing was held on this matter on May 15, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- | | | |
|----|----------------|---------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Norman Bickell | Representative for Applicant |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

IV. Executive Summary

Applicant seeks a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel.

At the time Applicant purchased the property, it was in timber use, and Applicant planted timber to replace the timber harvested by the prior owner. The subject property has historically been in timber production, has never been in farm use, and continues to be managed for timber production.

The proposed zone change is consistent with the historic and ongoing use of the property. Applicant has established compliance with all applicable criteria, and the hearings officer recommends **APPROVAL** of the application.

V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following finding of fact:

1. The subject property consists of one parcel, totaling 21.67 acres. The property is designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and zoned EFU (Exclusive Farm Use).
2. The property is located at the terminus of Wagner Ln SE, a public road that is graveled. The property is vacant and planted with commercial timber. There are no streams, floodplains, wetlands or geo-hazards mapped on the subject property.
3. Surrounding properties to the west, and south are zoned EFU and in various types of farm use. Property to the north and east are zoned TC (Timber Conservation) and are in active timber use.
4. Applicant seeks to change the Comprehensive Plan designation from Primary Agriculture to Farm Timber and change the zoning from EFU to FT (Farm Timber).
5. Marion County Planning Division requested comments from various governmental agencies. The following comments were received:

Marion County Public Works Land Development and Engineering Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits, an Access Permit will be required.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.
- C. Any new utility service extensions such as electric power originating from within the public right-of-way to the property require permits from MCPW Engineering.

Marion County Septic commented: "A soils and site evaluation will be required before building."

Marion County Building Department commented: "Permits are required to be obtained prior to the development of structures and/or utilities installation on private property."

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

6. The Application was signed by Jerome P. Lackner, as the owner of the property who purchased the property from the Estate of Ledor and Tyler Pinkston on September 16, 1992. Mr. Lackner should be prepared to present a copy of his deed if requested to the Board of Commissioners.

VI. Additional Findings of Fact and Conclusion of Law

1. Applicant has the burden of proving compliance with all applicable criteria.

STATEWIDE PLANNING GOALS

2. The Marion County Comprehensive Plan amendments section states that comprehensive plan amendments must be consistent with statewide planning goals, or seek exemptions to them. The relevance of each goal in this proposal is addressed below:

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

The notice and hearings process before the hearings officer and Board of Commissioners (BOC) provides opportunity for citizen involvement. Goal 1 is satisfied.

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

Applicant proposes a site-specific comprehensive plan amendment and an administrative review for a template dwelling. The Planning Division notified local and state agencies, including the Oregon Department of Land Conservation and Development (DLCD), for comments. Goal 2 is satisfied.

*Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.
OAR 660-033 governs agricultural lands.*

OAR 660-033-0145:

(1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-0050;

(2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-006-0055; and

(3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-0057.

Applicant's request to re-designate and rezone the subject property for farm/forest use is evaluated under OAR 660-006, specifically, OARs 660-06-0015, 660-006-0050 and 660-006-0057, and no Goal 3 exception is required to designate the subject property for forest use. Therefore, Goal 3 is met.

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

OAR 660-006-0015:

(1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied.

(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

The subject property is not inventoried, designated or zoned as forest land. No Goal 4 exception is required. Marion County is not a marginal lands county. The subject property is not an abandoned mill site. The property is zoned EFU under ORS Chapter 215. ORS 308.370, a farm use special assessment provision, was repealed in 1999. ORS 308A now governs farm use special assessment. EFU zoned land in farm use may receive special farm assessment but the farm use definition does not include land subject to forest use special assessment (ORS 308A.056(2)). The subject property is currently specially assessed for forest use. To approve the subject application, the BOC must inventory the property, apply a farm/forest designation and zone consistent with OAR 660-006, and explain the factors used to select the farm/forest designation. Under the MCCP forest lands section:

An area located east and south of the city of Silverton and commonly referred to as the Silverton Hills consist[s] of a mixed pattern of farm and forest land uses. The topography of this area consists of relatively level ridge tops with intervening stream canyons. The level areas are largely devoted to farm and woodlot uses while the stream canyons and steeper ridges are devoted to forest uses. This area is a transition between the Western Cascades and the Willamette Valley floor.

* * *

Under the provisions of OAR 660-006-0050, a governing body may establish agricultural/forest zones in accordance with both Goals 3 and 4 and consistent with OAR Chapter 660, Divisions 6 and 33. The mixed nature of the farm and forest uses in this area justifies the application of an agricultural/forest zone and both Goals 3 and 4. The Farm/Timber designation is discussed in the Forest Lands section of the Marion County Comprehensive Plan and policies pertaining to this designation are also included in the forest land goal and policies section.

The Farm and Timber designation has been applied to lands in Marion County that support a mixture of both agricultural and forestry activities. Designated areas were characterized by wide varieties in terrain, soil types and land use conditions. These areas are located in the foothills of the Cascade Mountains and are characterized by steep canyons, broad ridge tops and narrow alluvial river terraces. Soil types vary considerably in agricultural productivity from Class II to VI agricultural capability. The area is predominantly Class 2 and 3 timber soils which make a majority of the area highly productive forest land.

Whenever the terrain is not too steep and the soils have agricultural capability, the land is typically in farm use. Otherwise, the land is managed as woodland. As a result of the mixed terrain and soils, this area consists of a very mixed pattern of farm and forest uses frequently including both uses on a single tract. Therefore, both the agricultural lands and forest lands goals are applied, as authorized by OAR 660-006-0050.

The variable terrain and crop capabilities have contributed to the existing land use pattern that is a transition area between the predominately large-scale farms on the low land to the west and the large-scale commercial timber operations on the higher elevations to the east. The most common management units in the FT areas range from 20 to 40 acres. Ownership fragmentation and the alternating farm and timber character make it unlikely that these smaller farm and timber tracts will be consolidated to achieve larger management units.

A minimum parcel size of 80 acres is applied to the Farm/Timber land in Marion County. This minimum was chosen because it is consistent with the existing parcel sizes in this area being managed for timber and agriculture production on a commercial basis. Also, this parcel size is consistent with both OAR 660-06-0026 and 660-33-100, and it exceeds the recommendations of the State Department of Fish and Wildlife for the protection of significant deer and elk habitats. This area is primarily located within the peripheral deer and elk habitat as identified by the State Department of Fish and Wildlife. With development limited to such low densities, the watershed, open space and other resource values found on forest lands will be protected.

There are 15,000+ Farm/Timber designated acres in Marion County (MCCP, page I-14), most of it in the Silverton Hills, coexistent with the peripheral big game habitat area. In ZC/CP 15-001, ZC/CP 11-002 and ZC/CP 03-5, the BOC recognized that land outside the Silverton Hills area may qualify for Farm/Timber designation if it has sufficient Farm/Timber characteristics. The Farm/Timber area is described as an area of stream canyons and broad ridge tops. This description fits the subject property, but in miniature.

The variable topography makes integration with neighboring farm parcels less likely. At 21 acres, the property is in line the 20 to 40-acre common Farm/Timber parcel size.

The land adjacent to the north is zoned FT, and surrounding area of the subject parcel is devoted to timber and farming activities. As stated, the subject property has never been actively farmed. The previous owner harvested timber, and the Applicant has replanted timber during his ownership. The property has historically been devoted to timber and the Farm/Timber designation better suits the subject property than a Timber Conservation zone designation.

The Santiam Canyon Fire had a significant impact on the parcel by burning most of the acreage that was in 25+ years of replanting, as evidenced aerial photographs. Applicant provided proof of ongoing management for commercial forest use. Receipts provided by Applicant illustrate purchases from nurseries of commercial tree species.

The site shares sufficient characteristics to allow Farm/Timber designation and zoning. OAR 660-006-0015 is satisfied.

OAR 660-006-0050:

(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.

(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.

(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.

Goals 3 and 4, and OAR Chapter 660, Divisions 6 and 33 are being considered in this request to re-designate and rezone the subject property. Aerial photographs and the narrative in the record show the subject property was mostly treed and not apparently farmed at that time. OAR 660-006 dwelling standards apply. OAR 660-006-0055 is satisfied.

OAR 660-006-0057:

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

The area to consider for re-designation and rezoning consists solely of the subject properties. It contains a mixture of soils that are suitable for farm or forest uses. Practical

restrictions on this property do not make it wholly productive for solely farm or solely forest use. OAR 660-006-0057 is satisfied.

Goal 4 is satisfied.

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

There are no scenic, historic, or natural resources identified in the MCCP on the subject or nearby properties. Goal 5 is satisfied.

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

The parcel is not within an identified ground water overlay or any big game habitat. Farm/forest designation and zoning will allow forest uses and perhaps a future dwelling. The Marion County Code contains development standards related to septic system requirements that will have to be met if development occurs. Normal residential use would not emit excessive particulates or noise. In-place regulations will maintain the level of air, water and land resources. Goal 6 is satisfied.

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

The property contains no identified hazards. Goal 7 is satisfied.

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

No Goal 8 resources are identified on the subject site or implicated by this application. This goal is not applicable.

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

Goal 9 addresses commercial and industrial development, primarily in urban areas. OAR Chapter 660, Division 009 applies only to comprehensive plans for areas within urban growth boundaries. Goal 9 is not applicable.

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

OAR 660-008 is intended to define standards for compliance with Goal 10. OAR 660-008 deals with providing an adequate number of needed housing units, and efficient use of buildable land within urban growth boundaries. The subject property is not within an urban growth boundary. Goal 10 does not apply.

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

Applicant states that all rural services are provided in the area. Electric and telephone utilities are available in the area. Fire protection is provided by the Stayton Fire District and police protection is provided by the Marion County Sheriff. No public water and sewer services will be required. Little traffic will be generated by the proposed use, except during timber harvest. Goal 11 is satisfied.

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

Under OAR 660-012-0060(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 [transportation system plan]. 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.

The subject parcel will obtain its access of the Eastern end of Wagner Lane SE. The change in zone will not significantly impact the easement because any proposed use would comply with the zoning would be similar for both zones. The proposal would allow one dwelling that would potentially generate 10 traffic trips a day and forest use traffic would be minimal, except during harvest. Applicant does not propose changing the

functional classification of the road or standards implementing them. LDEP expressed no concern about the plan and zone amendment significantly affecting the existing transportation facility by allowing uses or levels of development that would be inconsistent with roads serving the property. Goal 12 is satisfied.

Goal 13: Energy Conservation. *To conserve energy.*

Both farm and forest uses are similar in nature, and changing the zone to FT will not create a more energy intensive use than is permitted in the EFU zone. An additional home site and continued forest use would not significantly increase energy consumption. Goal 13 is satisfied.

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

Changing the Marion County Comprehensive Plan designation to Farm/Timber and zoning to FT will not urbanize the subject property. Goal 14 does not apply.

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

The subject site is not within the Willamette River Greenway, or near ocean or coastal related resources. These goals do not apply.

COMPREHENSIVE PLAN AMENDMENT

3. The Marion County Comprehensive Plan does not contain specific review criteria for plan amendments. However, all comprehensive plan amendments must be consistent with applicable MCCP goals and policies. If the subject property is designated Farm Timber, forest lands goals and policies will apply. Therefore, the proposal must be consistent with the forest lands and goals and policies.

Forest Land and Farm/Timber Land Policy 1: *Protect the resource values of those areas designated as Forest Lands by applying a Timber Conservation [TC] zone consistent with OAR 660 Division 6.*

Applicant asks for Farm/Timber rather than Forest Land designation. Forest Land designation, TC zoning and Forest Land and Farm/Timber Land Policy 1 do not apply.

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

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

The existing parcel has been in timber use as far back as records can be researched. The parcel has had commercial timber harvested through the years and has been replanted with commercial tree species. Applicant proposes Farm/Timber designation and FT zoning. The subject parcel contains woodland and high value farm soils. FT zoning will recognize the parcel's current forest use while also protecting it for any future agricultural use. If re-designated Farm/Timber, OAR 660, Divisions 6 and 33 will be applied as required, and policies 2 and 3 will be met.

Forest Land and Farm/Timber Land Policy 4: Non-forest and non-farm uses included in OAR 660-06-0025 and OAR 660-33-0120 may be allowed when the activity meets criteria that ensure there will be no significant adverse impacts on farm or forest practices occurring on nearby lands or increase risks associated with fire.

Any requested OAR 660-06-0025 or 660-33-0120 uses will be reviewed and required to comply with all state and local criteria, including special fire protection standards. Policy 4 is met.

Forest Land and Farm/Timber Land Policy 5: Subdivision development is prohibited and other land divisions creating new dwelling sites are not compatible with the protection and efficient management of Forest Lands and Farm/Timber Lands and are discouraged.

Subdivision is not requested or allowed under the proposed designation and zoning. Policy 5 is met.

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

The minimum parcel size in the FT zone is 80 acres. The subject 21.67-acres are below that standard. Land division is not requested or allowed. Policy 6 is met.

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

No property line adjustments are requested, and any future property line adjustment request will be reviewed for compliance with applicable MCCP policies and MCC criteria. Policy 7 is met.

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

The applicant has submitted for a template test dwelling which will be reviewed for compliance applicable criteria in the Marion County Code. Policy 8 is met.

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

MCC 17.139.070 contains special siting and fire hazard protection requirements for the FT zone. If a dwelling is allowed on the subject property, it would have to meet any applicable OAR 660-006 and MCC chapter 17.139 requirements. Policy 9 is met.

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

Applicant purchased the property in September, 1992, and began restocking timber resources. A 1992 aerial photograph shows the subject property predominantly in trees. The parcel was in forest use on the January 1, 1993. If, in the future, a dwelling is requested for the parcel, it will be reviewed and have to comply with OAR 660-006 and MCC requirements. Policy 10 is met.

Applicant's proposal is consistent with statewide planning goals and the applicable goals and policies in the MCCP.

ZONE CHANGE

4. The criteria for a zone change are found in the Marion County Code Chapter 17.123.060:

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

The zone will be consistent with the goals and policies of the comprehensive plan as the comprehensive plan will change with it and will match the land use pattern in the area which is a mix of farm and forest uses. The criterion is met.

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

The zone will be consistent with the surrounding uses as it will match the land use pattern in the area which is a mix of farm and forest uses. The criterion is met.

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

The parcel is served by the Stayton Fire District, Marion County Sheriff's Office, has a public road providing access and will be served by a well and septic system. The criterion is met.

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

While the applicant is not proposing a specific use that needs to be located on the subject parcel, the applicant seeks to better align the present and future use of the parcel with its zoning. The applicant has no intentions to farm the property and would rather continue its commercial timber production use, which better suits the size and topography of the parcel. The criterion is met.

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

The new zone does not allow uses that are more intensive, rather it allows a combination of the same uses of the EFU zone with some added timber uses, which are already present on the site. By applying the FT zone to the property, there will be a benefit for the long term management of timber use. The new zone will better align the zoning with the present and future use of the parcel. The criterion is met.

TEMPLATE TEST

5. According to Chapter 17.139.030(B) of the Marion County Code (MCC) a single-family dwelling subject to the special use and siting requirements in MCC 17.139.070 may be allowed provided:

(a) The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

The subject parcel is owned by Jerome P. Lackner. Mr. Lackner does not own any other contiguous lands and there is not a dwelling on the subject property. The criterion is met.

(b) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. The other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.

The Applicant owned the lot in 2019 and was not a part of any tract. There was no dwelling on the subject property in 2019 either. The criterion is met.

(c) The lot or parcel is:

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Jerome P. Lackner

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(1) Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or

(2) Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or

(3) Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; and

(4) If the tract is 60 acres or larger and abuts a road or perennial stream the measurements shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road or stream; and

If a road crosses the tract on which the dwelling will be located, at least one of the required dwellings shall be on the same side of the road as the proposed dwelling and be located within the 160-acre rectangle or within one-quarter mile from the edge of the subject tract and not outside the length of the 160-acre rectangle; or

(5) If the tract abuts a road that existed on January 1, 1993 and subsection (D) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.

The FT zone permits dwellings that meet the template test criteria. The proposed dwelling will comply with the template test and is therefore not prohibited by the regulations. A study map produced by the Marion County Planning Division plots out a 160 acre square centered on the subject parcel that indicates that there are 20 lots with 10 dwellings in the study area. The study area encompasses an area that has been highly compromise by the Santiam Canyon fire, and many of the dwellings were destroyed and replaced.

The parcel can produce 2884.8 cubic feet per year of wood and abuts a road that did exist on January 1, 1993, Wagner Rd SE, as such, the applicants may use a square or rectangle to satisfy the template test. In this case, they have used a square that is aligned to the maximum extent with Wagner Rd SE. They have counted and marked on the map where 3 dwellings are that have existed since January 1, 1993 and the rectangle touches 20 total lots. There are no historic structures or sites. The criterion is met.

(6) Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.

No lots located within an urban growth boundary were used in this analysis. The criterion is met.

(c) The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including Sections 110.830 through 110.836.

Applicant details compliance with MCC 17.110 through 17.110.836, and the proposal complies with the General Provisions Section of the MCC 17.110.830 – 17.110.836. The parcel is not within an identified groundwater limited area, and the proposed dwelling will use a domestic well that is exempt from requiring a water right. The subject parcel is not within 1,500 feet of an aggregate site, nor will a dwelling have an adverse impact of natural areas, noise impacts or wildlife habitats where the area is already developed with dwellings. The criterion is met.

(d) The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

The parcel is not located within the Major Big Game Habitat Overlay. The criterion does not apply.

Development density shall be controlled so that significant wildlife habitat will not be adversely affected in the County's resource zones. The standards for dwelling density in big game habitat, as identified on the habitat maps, shall be: one dwelling unit/80 acres in major habitat; one dwelling unit/40 acres in peripheral habitat. If dwellings are clustered within 200 feet of each other, these densities may be doubled.

This criterion does not apply.

The special standards in MCC 17.139.070 include:

(a) Special Siting Requirements:

(1) Dwellings and structures shall comply with the special requirements in subsection (a)(2) or (3) of this section. Compliance with the provisions in subsection (a)(2) of this section and subsections (b), (f) and (g) satisfies the criteria in (a)(3) of this section. Alternative sites that meet the criteria in subsection (3) of this section and may be approved as provided in MCC 17.110.680.

(2) Siting Standards for Dwellings and Other Buildings.

A. Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.

This setback will be applied only to all property lines, as they all are in farm or forest use. The site plan submitted with this application meets this standard. The criterion is met.

B. The special setback in subsection (a)(2)(A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (a)(2)(A) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.

The setbacks will not be applied in such a way, the parcel is large enough to accommodate the setbacks. The criterion is met.

C. The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.

The parcel does not abut a public road, but is located directly southeast of Wagner Ln SE. It will be accessed by an approximately 400-foot-long easement that runs from the end of Wagner Ln SE through tax lot 1200 to the north and then the driveway will enter the subject property. The driveway on the subject property is 200 feet long and ends at a flat area, suitable for building, that is outside of the reforested area of the property. The criterion is met.

(3) Review criteria for alternative sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (a)(2) of this section may be approved if the proposed site will meet the following criteria:

A. The site will have the least impact on nearby or adjoining forest or agricultural lands.

B. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.

C. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.

D. The risks associated with wildfire are minimized.

Applicant does not request an alternative site. The area was chosen by Applicant because it is relatively flat and outside of the reforested portion of the property. The criterion do not apply.

(b) Declaratory Statement. The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:

"The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily

produce noise, dust, smoke and other impacts. The grantees, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and I/We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices I/We will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937."

Compliance may be met through a condition of approval.

(c) Domestic Water Supply.

(1) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as de-fined in the Forest Practices Rules (OAR Chapter 629).

(2) Evidence of a domestic water supply means verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.

(3) If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report upon completion of the well.

This shall be made a condition of approval.

(e) Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

Access is not being taken via a Forest Service Road, and the criterion do not apply.

(e) Tree Planting Requirements for Lots or Parcels over 10 Acres:

(1) Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

(2) At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.

This shall be made a condition of approval.

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(f) Fire Protection.

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.

(2) If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved, pursuant to the procedures set forth in MCC 17.110.680, subject to the requirements of subsection (F)(3) of this section.

Applicant is within the Stayton Fire District. The criterion are met.

(3) Alternative means of fire protection may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The following requirements apply:

A. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.

B. Road access to the water supply required in subsection (F)(3)(A) of this section shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.

The Stayton Fire Department has not commented regarding these requirements. At this time this section does not apply, but fire requirements may change when a building permit is applied for.

(g) Fire Hazard Reduction.

(1) The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

(2) The dwelling shall have a fire-retardant roof.

(3) The dwelling shall not be sited on a slope of greater than 40 percent.

(4) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

This shall be made a condition of approval.

(h) Road and Drainage Standards.

(1) Public road access to structures of more than 200 square feet in area or a dwelling shall comply with Section 4 of the Marion County Department of Public Works Engineering Standards adopted by the board of county commissioners April 11, 1990.

(2) Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district, except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the fire district or, if the site is not in a fire district, by the State Department of Forestry.

(3) Drainage standards for private roadways shall be those in Section 5 of the Public Works Engineering standards except that corrugated metal culverts of equivalent size and strength may be used.

This shall be made a condition of approval.

6. Applicant seeks to change the comprehensive plan designation from Primary Agriculture to Farm/Timber, which required consideration of the Forest Land and Farm/Timber Land policies. Marion County Planning found that the policies are satisfied and, if the Board of Commissioners (BOC) approves the comprehensive plan amendment, states that the proposed FT zone will be consistent with the Farm/Timber plan designation. MCC 17.123.060(A) is satisfied. Marion County Planning, and the hearings officer finds that the subject property contains sufficient FT zone characteristics and FT zoning can be applied here to protect this site for FT uses, and recommends the proposed zone change.
7. If the Board of Commissioners (BOC) approves the Zone Change/Comprehensive Plan Change/Administrative Review, Marion County Staff and the Hearings Officer recommend the following conditions:
 - A. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
 - B. Prior to issuance of any building permits, the applicants shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
 - C. The proposed dwelling shall be located substantially as indicated on the site plan submitted with the application. Minor variations may be allowed upon review and approval by the Planning Director.
 - D. The owners shall maintain a fire hazard reduction plan as recommended by the Oregon Department of Forestry.

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E. The proposed dwelling shall meet the fire protection and hazard reductions as listed in MCC 17.139.070.

F. The dwelling shall maintain a special 200-foot setback from all property lines. Accessory structures shall maintain a special 100-foot setback from surrounding properties in farm or timber production.

G. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).

H. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

I. All standards contained in MCC 17.139.070 shall be made conditions of approval.

J. As an advisory, the applicant should contact the Stayton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

8. The proposed conditions of approval are necessary for the public health, safety, and welfare.

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel in the EFU (Exclusive Farm Use) zone located at the end of Wagner Lane SE in the 22600 block (T9S; Range 2E; Section 18A; Tax Lot 100).

Therefore, the Hearings Officer recommends that the Marion County Board of Commissioners **GRANT** the Application subject to the following conditions that are necessary for the public health, safety, and welfare:

1. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permits, the applicants shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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Jerome P. Lackner

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3. The proposed dwelling shall be located substantially as indicated on the site plan submitted with the application. Minor variations may be allowed upon review and approval by the Planning Director.
4. Applicant/Owner shall maintain a fire hazard reduction plan as recommended by the Oregon Department of Forestry.
5. The proposed dwelling shall meet the fire protection and hazard reductions as listed in MCC 17.139.070.
6. The dwelling shall maintain a special 200-foot setback from all property lines. Accessory structures shall maintain a special 100-foot setback from surrounding properties in farm or timber production.
7. Applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).
8. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
9. Applicant shall comply with all standards contained in MCC 17.139.070, shall be made conditions of approval.
10. As an advisory, Applicant should contact the Stayton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

VIII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this Application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED at Salem, Oregon, this 30th day of June, 2025.

Jill F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Norman Bickell
2232 42nd Ave SE, #771
Salem, Oregon 97317
Nbickell0027@aol.com

Area Advisory Committee 8: (via email)

Eugene Fief
20293 N Santiam Hwy
Stayton, OR 97383
genefief5310@gmail.com

Randall Tinney
PO BOX 242
Mehama, OR 97384

Roger Kaye
Friends of Marion County
Rkaye2@gmail.com
P.O. Box 3274
Salem, OR 97302

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

County Agencies Notified:

Assessor's Office (via email)
assessor@co.marion.or.us

Tax Collector (via email)
NMcVey@co.marion.or.us
ADhillon@co.marion.or.us
Surveyor's Office (via email)
KInman@co.marion.or.us

Fire District: (via email)
Stayton Fire District

jay.alley@staytonfire.org
jack.carriger@staytonfire.org

Planning Division (via email)
breich@co.marion.or.us
abarnes@co.marion.or.us
jspeckman@co.marion.or.us
ediaz@co.marion.or.us

Building Inspection (via email)
pwolterman@co.marion.or.us
Kaldrich@co.marion.or.us
CTate@co.marion.or.us

Public Works LDEP Section (via email)
jrasmussen@co.marion.or.us
mcldep@co.marion.or.us
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School District: (via email)
North Santiam School District
20256 Grim Rd. NE
Aurora, OR 97002
ginger.redlinger@nsantiam.k12.or.us

State Agencies Notified: (via email)
karen.grosulak-mccord@dlcd.oregon.gov
sarah.marvin@state.or.us
hilary.foote@state.or.us
odfw.info@state.or.us

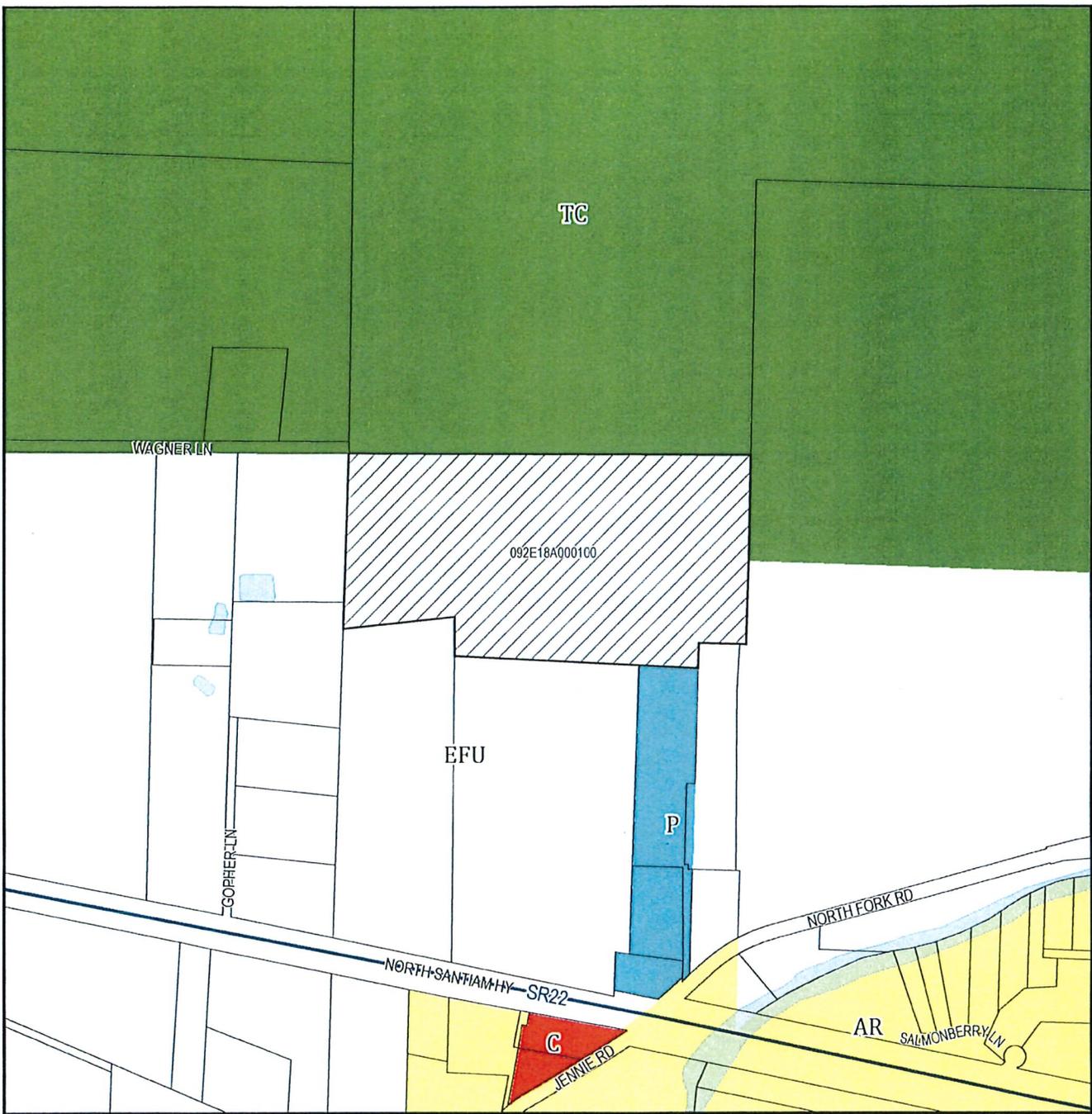
Special Agencies Notified: (via email)
Jill Engel
PO Box 1261
Salem, OR 97303
info@marioncofarm.com

CERTIFICATE OF MAILING (ZC / CP / AR 25-001 Jerome P. Lackner)

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 30th day of June, 2025 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer



ZONING MAP

Input Taxlot(s): 092E18A000100

Owner Name: LACKNER, JEROME P

Situs Address: (No Situs Address)

City/State/Zip:

Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: STAYTON

Legend

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 507 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: Consider adoption of an administrative ordinance granting Zone Change 25-003/LuckyJun, LLC

Management Update/Work Session Date: N/A Audio/Visual aids []

Time Required: 5 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Staff recommended motion: Approve the administrative ordinance approving Zone Change ZC 25-003/LuckyJun, LLC. Other motion options for consideration are: 1. Direct staff to make changes and approve a modified ordinance. 2. Not approve the ordinance.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on August 7, 2025, and on August 20, 2025, issued a decision to approve the application. The ordinance and findings have been prepared and the notice of adoption was given on September 17, 2025. The administrative ordinance is now set for formal adoption. The zone is changing from Multi-Family to Commercial Retail and will match the underlying existing commercial designation. Unless there is an appeal, the zoning code provides that the board does not have to hold a hearing on this request because it is for a zone change only; the comprehensive plan isn't changing. The underlying commercial comprehensive plan designation will remain the same.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: For Brandon Reich

SECTION V. Effective Date

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

SIGNED and FINALIZED this _____ day of _____, 2025, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

JUDICIAL NOTICE

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

In the Matter of the Application of)	Case No. ZC 25-003
)	
LUCKYJUN, LLC)	ZONE CHANGE

ORDER

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the Application of LuckyJun, LLC to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S; R2W; Section 30CC; Tax lot 100).

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code, especially Chapter 16.06 (Commercial Retail Zone) and Chapter 16.39 (Zone Change), the Salem Comprehensive Plan Goals, Economic Development and Employment Policies, Land Use and Urbanization Goals and Policies, and the State of Oregon Planning Goals.

III. Public Hearing

A public hearing was held on this matter on August 7, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

- | | | |
|----|---------------|----------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Junyao Cen | Applicant |
| 3. | Jimmy Cen | Applicant's Representative (son) |

No objections were raised as to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing.

IV. Executive Summary

Applicant seeks to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem. Approval of the application will eliminate the dual-zoning condition, which is inefficient to expand commercial use in a commercially developed area. Applicant has met the burden of establishing compliance with the applicable standards and criteria to change the zone from RM to CR, and the hearings officer **GRANTS** the application, subject to conditions of approval.

VI. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. Junyao Cen, on property owned by LuckyJunLLC, proposes to change the zone from RM (Multiple-Family Residential) to CR (Commercial Retail) on a portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S, R2W, Section 30CC, Tax lot 100).

The other portion of the property is already zoned CR and this would make the entire property zoned CR. The subject property is within the Salem Urban Growth Boundary (UGB) and designated Commercial in the Salem Area Comprehensive Plan (SACP). The property's current split RM and CR zoning is under the jurisdiction of Marion County. Applicant proposes to construct a mixed-use building used for both commercial and residential purposes the property, assuming approval of this zone change.

2. The property is located directly west of Lancaster Dr NE, directly northwest of its intersection with Hudson Ave NE. The parcel is generally flat and contains one commercial structure on it. The entire property is paved, while the area surrounding the structure is landscaped with some vegetation.
3. Adjacent properties to the north, south, and east are zoned CR (Commercial Retail) and are mostly in commercial use. The exception to this is one undeveloped parcel directly south, which is zoned RM. Properties to the west and southwest are zoned RM (Multiple-Family Residential) and appear to have a mix of multi-family and single-family residences.
4. Marion County Planning Division requested comments from other agencies:

Marion County Land Development Engineering and Permits (LDEP) commented:

ENGINEERING ADVISORIES

- A. The following are PW Engineering anticipated items for future site buildout:

- Dedicate 48-foot right-of-way half-width along Lancaster Dr
- Dedicate a 30-foot right-of-way half-width along Hudson Ave
- Reconstruct and narrow Lancaster Dr driveway to meet county width and ADA standards
- Consolidate Hudson Ave accesses into one reconstructed ADA-compliant west approach
- Design and construct up to two directional ADA ped corner ramps to replace existing single non-compliant ramp at intersection
- Remove encroaching sidewalk vegetation west end Hudson Ave
- Design, permit and construct stormwater collection, conveyance, detention and water quality treatment system

- Remove concrete pad(s) from expanded public R/W

Marion County Building commented: “Permit(s) are required to be obtained prior to the development of structures and utilities installation on private property. Construction documents are highly recommended to be prepared by an Oregon licensed design professional (architect or engineer) to show the proposed development will meet current building codes requirements.”

All other agencies either failed to comment or stated no comment on the proposal.

5. Austin Barnes, Marion County Planning, testified that all applicable criteria were addressed with respect to the zone change. Mr. Barnes indicated that there is a clarification from the staff report. The application and staff report did not specifically address a housing analysis or make any findings with respect to housing goals because the application seeks to change the zone from RM to Commercial. The Fair Housing Council indicated that the property was not previously included in the housing inventory. Mr. Barnes testified that since the Applicant seeks to include housing in the proposal, the proposal only adds to the housing inventory, which satisfies Goal 10.
6. Jimmy Cen testified at the hearing. Mr. Cen testified that the parcel is currently divided between CR and RM zoning. Mr. Cen indicated that the split zoning renders the property inefficient to expand the commercial use as a primarily commercial area. The change in zoning would allow additional building on the site, and meets applicable code and criteria.

VII. Additional Findings of Fact and Conclusion of Law

1. Applicants have the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met.

2. Pursuant to MCC 16.36.070, applications shall include the signature of all owners of the subject property. The application was signed by Junyao Cen. A Statutory Special Warranty Deed, recorded at Reel 4612, Page 232, evidences that LuckyJun, LLC is the owner of the subject

property. The Oregon Secretary of State Corporation Division website evidences that LuckyJun, LLC is an active Oregon limited liability company, and its member is Junyao Cen.

3. Pursuant to MCC 16.39.010, the hearings officer is authorized to make the initial decision on zone change applications.
4. Pursuant to MCC 16.39.040, a hearings officer's decision to approve a zone change does not become final until the Board of Commissioners adopts an ordinance implementing the decision.
5. According to the Salem-Keizer Urban Area (Regional) Procedures and Policies of the Salem Area Comprehensive Plan, the following applies to the question of jurisdiction: Marion County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area and Keizer Urban Area that are outside the Salem city limits and outside the Keizer city limits, other than regional planning actions and amendments to the urban area policies.
6. Under Marion County Code (MCC) 16.39.050, approval of a zone change shall include findings that the change meets the following criteria:
 - A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.*

The subject property is currently a split zone, with a portion of the parcel being zoned Commercial Retail and the remainder being Multiple-Family Residential. Applicant proposes to change the section of the parcel zoned RM to Commercial Retail. This change would be in alignment with the underlying Comprehensive Plan (Commercial). Approval of the application to allow the zone change would also resolve the existing issue of having an incompatible Zone and Comprehensive Plan combination, as the RM zone does not implement the Commercial Comprehensive Plan designation. The criterion is met.

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

The subject property is located directly off Lancaster Dr NE, which is within the Cherriots Public Transit Corridor Overlay. The property has available water and sewer services. Applicant also states that, should any additional utilities and traffic needs be required, they will be addressed during the development process and coordinated with the appropriate public agencies. The criterion is met.

- C. *The request shall be consistent with the purpose statement for the proposed zone.*

The purpose statement for the CR zone is "to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial

accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.”

Applicant intends to place a mixed-use building on the western portion of the property. This building will consist of a commercial space with dwelling units on the second floor. Per MCC 16.06.010(A)(1) Dwelling units in conjunction with a commercial use are allowed outright as a permitted use, and are therefore, by default, consistent with the CR zone’s proposed statement. The criterion is met.

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

Commercial Retail is the least intensive zone that both fits the Commercial plan designation and that allows for dwelling units in conjunction with a commercial use as an outright permitted use. Commercial Retail is also the zoning of the majority of surrounding properties off Lancaster. The proposal of dwelling units also aligns with the neighboring properties to the west off Hudson Avenue NE, as these properties are zoned for and contain dwellings. Therefore, the proposed zone change will not have any significant adverse effects on adjacent properties, as a zone change to Commercial Retail would match the current zoning of most neighboring properties. The criterion is met.

7. The existing Plan designation in the Salem Area Comprehensive Plan (SACP) is Commercial, and this Plan designation provides for the application of the CR zone proposed by the applicant. Policies applicable to the proposal are:

E 1 Economic Development Goal: Strengthen and diversify the economy to enhance Salem’s economic prosperity and resiliency. (SUA)

The proposed zone change meets many of the policies within this section; as the Commercial Retail zoning allows for multiple commercial uses beneficial to economic growth. The criterion is met.

E 2 Land Supply Goal: Maintain an adequate supply of land to meet Salem’s economic and employment needs. (SUA)

E 2.1 Employment land: The City shall provide a supply of employment land that accommodates the amounts, size, types, locations, and service levels needed to meet the short-term and long-term employment growth forecasts for the Salem Urban Area. (SUA)

The Salem Comprehensive Plan designates the subject parcel as Commercial. The proposed zone change would bring the RM portion of the parcel into conformity with the long-term growth forecast for Salem. The mixed-use development provides a zone appropriate service to the surrounding area and aids in residential, economic, and employment goals. The criterion is met.

E 3 Access and Livability Goal: Promote a vibrant economy that increases access to jobs, goods, and services.

E 3.2 Transit-oriented development: Pedestrian-friendly, mixed-use development and redevelopment should be encouraged along corridors with frequent transit access and near Cherriots' Core Network to increase access to jobs and services, reduce the need for single-occupancy vehicle trips, and support public transit.

Lancaster Dr NE is classified as a Major Arterial Road and is a main service branch and key focus area for Cherriots bus routes. There are frequent services along the said transit corridor, and therefore has convenient access to jobs, goods, and services. Furthermore, the goal seeks to encourage mixed-use development is met with the applicant's proposal. The criterion is met.

L 1 Urbanization and Growth Management Goal: Manage growth in the Salem Urban Area through cooperative efforts between the City of Salem, Marion and Polk counties, and other jurisdictions to provide area residents with a high quality of life, contain urban development, promote the City's efficient delivery of services, and preserve adjacent agricultural lands. (SUA)

L 1.10 Infill: Development of vacant and underutilized land with existing urban services should be encouraged before converting urbanizable lands to urban uses and extending services beyond presently served areas.

The subject property is within the Salem Urban Area, is surrounded by development, and the western portion of the property (which is the focus of this zone change application) is vacant but has immediate access to services. Approval of the zone change would promote potential development of underutilized land within the existing urban services area. The criterion is met.

8. Based on the findings and analysis under the Marion County Code and the Salem Area Comprehensive Plan (SACP), the proposed zone change from RM to CR is appropriate for the underlying commercial designation and is consistent with the applicable policies of the relevant goals as outlined by SACP.

Therefore, the proposed zone change meets the criteria in MCC 16.39.050(A).

9. The subject parcel is in an area with existing infrastructure, including water and sewer services. The parcel is located on Lancaster Dr SE, a well-developed five lane road classified as a major arterial. Both northbound and southbound transit service stops are located within 1/5th of a mile

of the subject parcel along Lancaster Dr NE. These stops are run by Cherriots bus service every 15 minutes on weekdays.

Therefore, the criterion of MCC 16.39.050(B) is met.

10. The CR (Commercial Retail) zone purpose statement listed under MCC 16.06.000 states:

The purpose of the CR (commercial retail) zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.

The proposed CR zone is appropriate for the underlying SACP designation of Commercial. Applicant anticipates developing mixed-use commercial infrastructure that has access from a major arterial road. Therefore, MCC 16.39.050 (C) is met.

11. The proposed CR zone would allow the zone and comprehensive plan designation to come into alignment, as the existing RM zone is incompatible with the underlying Commercial designation. The proposed CR zone would not cause any adverse effects on adjacent properties as the majority are also zoned CR and therefore the subject property being made wholly CR would not cause it to be zoned for a more intensive use than neighboring parcels. Therefore, MCC 16.30.050 (D) is met.

12. Relevant Oregon Statewide Planning Goals are considered:

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The process for evaluating the proposed zone change is outlined in MCC 16.39. This process implements policy framework of both Marion County Code and consideration of the underlying City of Salem Comprehensive Plan Goals. The process also allows the opportunity for public comment and requires review by a hearings officer. Therefore, the planning process is consistent with Goal 2.

Goal 9 – Economic Development

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

The proposed Commercial zoning allows for a variety of commercial uses, creating opportunities for small businesses and local economic growth. Rezoning this section of the parcel would allow

for infill development and contribute to the community's economic vitality. Therefore, this is consistent with Goal 9.

Goal 10 – Housing

To provide for the housing needs of citizens of the state.

The property is zoned RM This zone change would allow the property to be developed as commercial with mixed use to include housing. The property was not previously counted as inventory, however, because the applicant proposes to include housing, the zone change adds to the housing inventory, which implements the underlying plan designation. Therefore, the proposal is consistent with Goal 10.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

The subject parcel of the proposed zone change is next to the major arterial road Lancaster Dr SE. The Cherriots service corridor that runs the length of Lancaster, Route 11, runs every 15 minutes on weekdays. Lancaster Dr SE is a five-lane road and can easily accommodate the increased traffic which may result from the potential infill development made possible by the proposed zone change. Therefore, the proposed zone change is compatible with Goal 12.

Goal 14 – Urbanization

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

The subject parcel is within the Salem Urban Growth Boundary and designated Commercial in the Salem Area Comprehensive Plan. The proposed zone change to Commercial Retail is consistent with Salem's Comprehensive Plan designation and would bring the property into compliance with Salem's long term urbanization goals, which in turn ensures the efficient use of the land. Therefore, the proposed zone change is compatible with Goal 14.

13. Marion County Planning Staff recommended approval of the proposal from RM to CR, with the application of the following conditions of approval:
 - A. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
 - B. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.

14. The proposed condition of approval (requiring all development on the property must satisfy specific development standards in the CR zone) requires clarification because there is a conflict with respect to density allowances between the CR and RM zones. The conflict is that the CR zone expressly allows “dwelling units” tied to a commercial use, but MCC 16.200.050(E) would cap other zones (which includes CR) at one dwelling per lot when dwellings are allowed. Staff indicates that the number of dwellings could not exceed that which is allowed in the RM zone. MCC 16.27.050(E) can be interpreted as applying to stand-alone residential projects in “other zones” and not mixed use in the CR zone. Staff indicates a maximum of six (6) dwelling units as a restriction on density. However, Applicant indicates that substantially fewer units are intended based upon the available property and restrictions of other applicable standards.

VII. Decision

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change from RM to CR have been met. Therefore, the Hearings Officer **GRANTS** the zone change application, subject to the conditions set forth below. The conditions are necessary for the public health, safety and welfare.

- A. The Applicant shall obtain all permits required by the Marion County Building Inspection Division.
- B. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.
- C. The Applicant is limited to the development of up to 6 dwelling units.

VIII. Referral of Decision

This document is a referral to the Marion County Board of Commissioners. A hearings officer’s decision to approve a zone change does not become final until the Board adopts an ordinance implementing the decision. Any aggrieved or affected person may file with the Marion County Clerk (555 Court Street NE, Salem, Oregon), a written request for a public hearing before the Board within fifteen (15) days of the date of mailing of this decision. The request must be accompanied by and will not be accepted without payment of a \$500.00 fee. If the Board denies the appeal, \$300 of the fee will be refunded. The Board has discretion whether to hold a public hearing. After fifteen (15) days, the Board may take final action on this application without conducting another public hearing.

DATED this 20th day of August, 2025.



Jim F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Junyao Cen
193 Lancaster Dr. NE
Salem, OR 97301

Surveyor's Office (via email)
KInman@co.marion.or.us

Jimmy Cen
193 Lancaster Dr. NE
Salem, OR 97301

Fire District No. 1:
300 Cordon Rd NE
Salem, OR 97301
emanuela@mcfd1or.gov

City: Salem/Keizer (via email)
apanko@cityofsalem.net
developmentservices@cityofsalem.net
Planning@cityofsalem.net
withams@keizer.org

Planning Division (via email)
breich@co.marion.or.us
abarnes@co.marion.or.us
jspeckman@co.marion.or.us
ediaz@co.marion.or.us
GPeden@co.marion.or.us

Area Advisory: Committee #
NA

Building Inspection (via email)
pwolterman@co.marion.or.us
Kaldrich@co.marion.or.us
CTate@co.marion.or.us

Roger Kaye
Friends of Marion County
P.O. Box 3274
Salem, OR 97302

Public Works LDEP Section (via email)
jrasmussen@co.marion.or.us
mcldep@co.marion.or.us
JShanahan@co.marion.or.us

1000 Friends of Oregon
340 SE 6th Street
Portland, OR 97214

School District: Salem/Keizer (via email)
fridenmaker_david@salkeeiz.k12.or.us

County Agencies Notified:

Assessor's Office (via email)
assessor@co.marion.or.us

Code Enforcement (via email)
CGoffin@co.marion.or.us

Tax Collector (via email)
NMcVey@co.marion.or.us
ADhillon@co.marion.or.us

State Agencies Notified:
angela.camahan@state.or.us
hilarv.foote@dlcd.oregon.gov
sarah.marvin@state.or.us

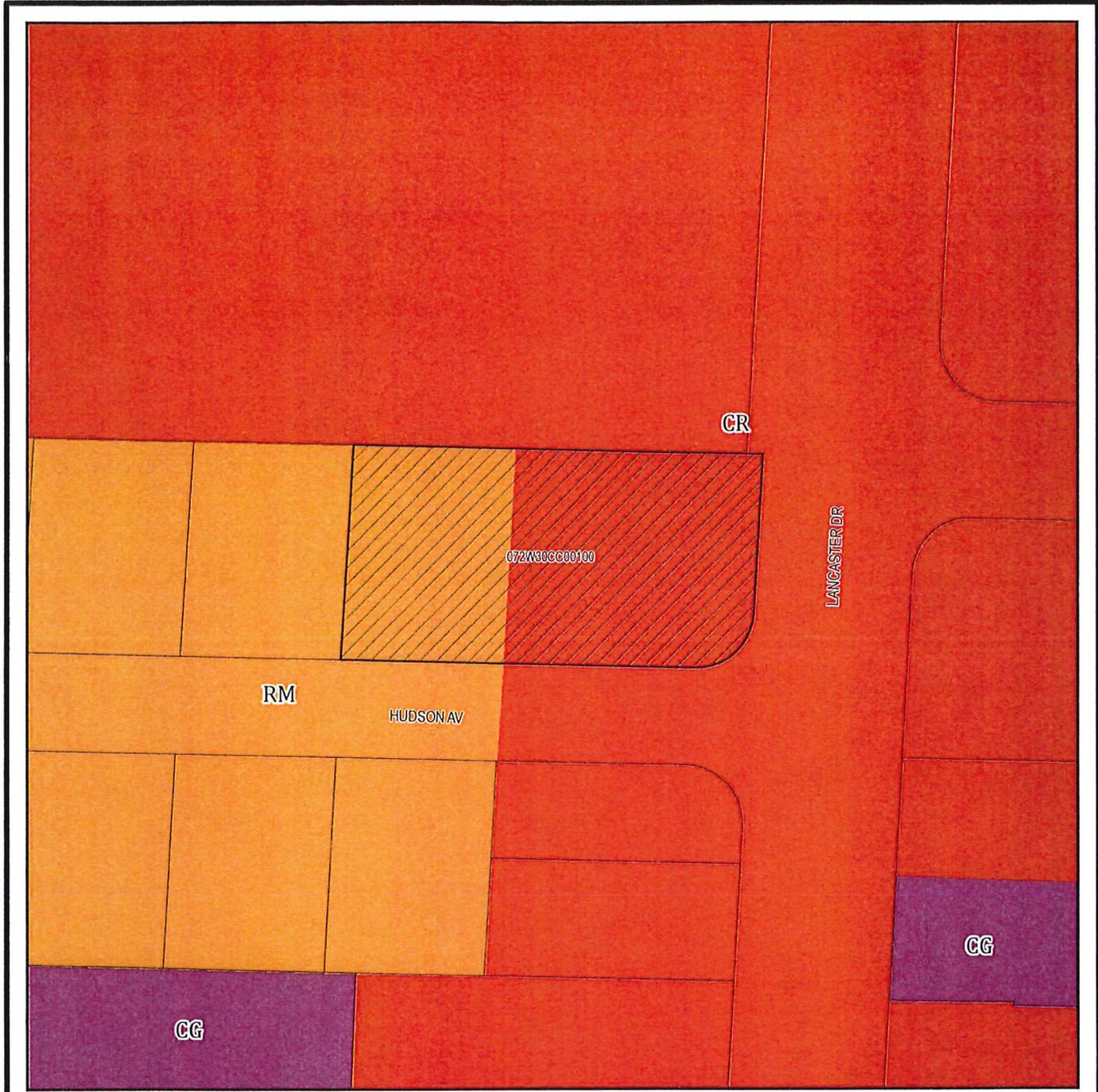
Special Agencies Notified:

NA

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above. that said copies were deposited in the United States Post Office at Salem, Oregon, on the 20th day of August, 2025 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer



ZONING MAP

Input Taxlot(s): 072W30CC00100

Owner Name: LUCKYJUN LLC

Situs Address: 193 LANCASTER DR NE

City/State/Zip: SALEM, OR, 97301

Land Use Zone: CR; RM

School District: SALEM-KEIZER

Fire District: MARION COUNTY NO.1

Legend

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 73 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 24, 2025

Department: Public Works

Title: Consider adoption of an administrative ordinance granting Comprehensive Plan Change/Zone Change/Partition 19-005/Lois Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust

Management Update/Work Session Date: N/A Audio/Visual aids []

Time Required: 5 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Consider adoption of an administrative ordinance granting Comprehensive Plan Change/Zone Change/Partition 19-005/Lois Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust. Adopt the ordinance as written.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on September 8, 2022, and on June 2, 2025, issued a recommendation to approve the application. The Board held a duly noticed public hearing on the application on August 20, 2025, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the notice of adoption was given on September 17, 2025. The administrative ordinance is now set for formal adoption.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: For Brandon Berch

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

In the Matter of the) Case No. CP/ZC/P19-005
Application of:)
Lois M. Pfennig, Trustee of the Henry O.)
and Lois M. Pfennig Trust)

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Lois M. Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential 10-acre minimum) and the comprehensive plan designation from SA (Special Agriculture) to Rural Residential with an exception to Statewide Land Use Goal 3 (Agricultural Land) on a 20.46 acre parcel, and then a partition to divide the 20.46 acre parcel into two parcels containing 10 acres and 10.46 acres each, on property located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 04A; Tax Lot 2800).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on September 8, 2022, and on June 2, 2025, issued a recommendation to approve the application. Official notice was taken of the Planning Division file and the Hearings Officer's recommendation. The Board held a duly noticed public hearing on the application on August 20, 2025, and has considered all the evidence in the record, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Fact and Additional Findings of Fact and Conclusions of Law contained in Section V and VI of the Hearings Officer's decision dated June 2, 2025 contained in Exhibit A, and supplemental findings contained in Exhibit B, both attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested zone change from SA (Special Agriculture) to AR-10 (Acreage Residential 10-acre minimum) and the comprehensive plan designation from SA (Special Agriculture) to Rural

Residential with an exception to Statewide Land Use Goal 3 (Agricultural Land) on a 20.46 acre parcel, and then a partition to divide the 20.46 acre parcel into two parcels containing 10 acres and 10.46 acres each is hereby **GRANTED**, subject to conditions identified in Exhibit C, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is identified on a map in Exhibit D, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to Marion County Code Section 17.110.660 to reflect the new zoning subject to conditions identified in Exhibit C, attached hereto, and by this reference incorporated herein.

SECTION V. Effective Date

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

SIGNED and FINALIZED this _____ day of _____, 2025, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

JUDICIAL NOTICE

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

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of)	Case No. CP/ZC/P 19-005
)	
Lois Pfennig, Trustee of The Henry O.)	COMPREHENSIVE PLAN AMENDMENT
and Lois M. Pfennig Trust)	ZONE CHANGE and PARTITION

RECOMMENDATION

I. Nature of the Application

This matter is before the Marion County Hearings Officer on the Application of Lois M. Pfenning, Trustee of the Henry O. and Lois M. Pfenning Trust to change the comprehensive plan designation from Special Agriculture to Rural Residential and to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential), on a 20.46 -acre parcel, then partition that parcel into two lots of 10 and 10.46 acres, located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 4A; tax lot 2800).

II. Relevant Criteria

The standards and criteria relevant to this Application are found in the Marion County Comprehensive Plan (Rural Development Policies), and the Marion County Code (MCC) Title 17, especially MCC 17.123, MCC 17.128, and MCC 17.172. Policies relevant to this Application are also found in the State of Oregon Statewide Planning Goals, and Oregon Administrative Rules (OAR 660-004-018 and OAR 660-004-028).

III. Public Hearing

A public hearing was held on this matter on September 8, 2022. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- | | | |
|----|---------------|---------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Wallace Lien | Attorney for Applicant |
| 3. | Larry Pfennig | In Support of Application |
| 4. | Roger Kaye | Friends of Marion County |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

A request was made at the hearing to leave the written record open to submit additional materials. Pursuant to ORS 197.763(6)(a), prior to the close of the evidential hearing, any participant may ask to present additional evidence, argument, or testimony on the applications, and the hearings officer shall grant the request by continuing the hearing to a later date, or by keeping the record open to submit the information in writing. The hearings officer granted an open record period.

The following submissions were received during the open record period:

1. Submission by Friends of Marion County Received September 20, 2022 with attached Exhibit Map
2. Applicant's Open Record Submittal

IV. Executive Summary and Background

Applicant applied for an irrevocably committed exception to Goal 3 and Goal 14 in the original application in 2019. Planning staff and the hearings officer denied the application. The Board of Commissioners approved the application on March 24, 2021, Ordinance No. 1429. Friends of Marion County appealed the decision to the Land Use Board of Appeals (LUBA). LUBA concluded that the County's decision relied on findings that did not comply with applicable rules and that were not supported by substantial evidence. LUBA determined that the standards for an irrevocably committed exception had not been met.

Applicant submitted a supplemental justification to resolve the concerns raised by LUBA in its remand of the Board's prior approval. As part of the revised application, Applicant modified the request for the AR-2 zone to the AR-10 zone. Because 10 acres are not considered urban in nature, the requirement for a Goal 14 Exception is eliminated.

Applicant submitted additional materials to address the evidence to support the determination and has established compliance with all applicable criteria. The testimony and affidavit of Larry Pfennig are compelling because Mr. Pfennig is the farmer who has attempted to keep the subject property in farm use, but based on several issues has determined that farming is simply impractical on the subject property. The additional findings, along with the modified application, are sufficient to overcome the standards required to take this property out of exclusive farm use. Applicant has shown that the relationship between the subject property and the adjacent lands has irrevocably committed the subject property to uses allowed by Goal 3, and that the uses allowed by the goal are impracticable. The Hearings Officer recommends **APPROVAL** of the Application with conditions of approval stated herein and robust findings of fact to support a determination that farm use cannot coexist with surrounding uses.

This case presents a difficult analysis of conflicting issues for farming viability and protection of farmlands. Larry Pfennig's Affidavit addresses the subject property's relationship with surrounding parcels and presents sufficient findings that farming is impracticable on the subject property. Mr. Pfennig's statements are based on his experience as a life-long farmer, and present sufficient support to approve the application. Robust findings of fact must be included in an Order to withstand scrutiny from the Land Use Board of Appeals. It is recommended that Applicant provide additional evidence at the BOC hearing to support Applicant's decision to stop farming the property, and additional evidence to establish that the issues suffered on the property are not an inevitable consequence of Applicant's decision not to farm, other than cover crops.

Planning suggests a 300-foot special setback if approval is recommended. Applicant objects. Further factual support is needed to justify a special setback of over 100 feet.

V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following finding of fact:

1. The property is located west of 62nd Avenue SE, south of Macleay Road SE, and north of Culver Drove SE. The property is unimproved and has a small amount of frontage on an undeveloped right-of-way identified as Wickiup Street SE and access from Whispering Way SE, a private easement. The parcel is currently being farmed and is specially assessed for agriculture by the Marion County Tax Assessor's Office. Soils on the subject parcel are composed of Amity (Am), Woodburn (WuA), Concord (Co), and Silverton (SuC) Class II and III silt loam soils that are defined as high value for agriculture. The property is described in its current configuration in deeds as far back as 1958 and is a legal parcel for land use purposes.
2. Surrounding properties to the west and south are zoned SA and composed of small to medium sized lots in agricultural and rural residential use. Property to the north and east is zoned AR and developed with small rural residential lots.
3. Applicant seeks to create a revised partition of the 20.46 acre property into two parcels of 10.46 acres and 10 acres.
4. Marion County Planning Division requested comments from various governmental agencies. The following comments were received in response to the Applicant's first application requesting AR-2 zoning. No further request for comments was made for Applicant's modified application, and therefore, the comments received reference the original application:

Marion County Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use case:

ENGINEERING CONDITIONS

Condition A - On the plat, show sufficient right-of-way dedication to serve the future AR-2 lots.

Condition B - Prior to plat approval, provide a stormwater detention template plan prepared by a licensed civil engineer addressing stormwater detention on each of the proposed lots to be constructed in conjunction with homebuilding.

Condition C - Prior to plat approval, provide a notarized Road Maintenance Agreement (RMA) regarding the proposed shared access easement."

ENGINEERING REQUIREMENTS

- D. In accordance with Marion County Code 11.10, driveway "Access Permits" for access to the public right-of-way will be required upon application for building permits for a new dwelling on any of the resulting parcels. Driveways must meet sight distance, design, spacing, and safety standards.
- E. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon

CP/ZC 19-005 – RECOMMENDATION

application for building permits, per Marion County Ordinances #00-JOR and #98-40R, respectively.

- G. Utility work within the public right-of-way requires permits from MCPW Engineering.

ENGINEERING ADVISORY

- I. There is concern that applying a step-wise approach to developing the entire subject property as AR-2 in combination with the northern neighboring parcels under similar ownership may invoke difficulties with access that meets MCPW as well as fire access standards.
- J. The land use application site map has Whispering Way annotated as a 40 feet wide easement. However, it is noted that Partition Plat #2012-08, and subsequently Partition Plat #2019-38, indicates Whispering Way as being a total of 26 feet in width.
- K. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.
- L. Applicant is advised to coordinate with the local fire marshal for any required fire turnarounds and/or turnouts that may need to be depicted on the plat.
- M. Per Partition Plat #2012-08, and subsequent Partition Plat #2019-38, the easement shown on the site plan from Macleay Road (Whispering Way) does not serve the subject property and is therefore not a legal access for the subject property. This easement currently serves two parcels without frontage to public right-of-way."

Marion County Onsite Wastewater Specialist commented: Site evaluation required for two new 2.0 acre parcels.

Marion County Fire District No. 1 commented on fire safety, access, and premise identification requirements for development of the property.

Oregon Department of Land Conservation and Development commented: Irrevocably committed exception must demonstrate compliance with OAR 660-004-0018(2), which addresses planning and zoning for exception areas. Specifically, the applicant must demonstrate that approval of the exception meets the following requirements:

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

The applicant should address whether future residential uses will irrevocably

commit adjacent lands zoned Special Agriculture and how it will be compatible with adjacent farm use. It is insufficient to rely on current compatibility with adjacent farm uses since the use of the subject property is proposed to change to residential.

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

5. On November 22, 2021, the Land Use Board of Appeals issued its Final Opinion and Order. LUBA determined that the County's decision relied on findings that do not comply with applicable rules and are not supported by substantial evidence. LUBA stated that the standards for an irrevocably committed exception were not met because resource use of the subject property has not been shown to be impracticable. However, LUBA determined that it could not conclude that an irrevocably committed exception for the subject property is prohibited as a matter of law, and remanded the matter.
6. In response to the LUBA order, Applicant provided Supplemental Justification with additional facts in support of the Application. Most notably, Applicant modified the request to seek an AR-10 zone instead of the AR-2 zone originally sought. The modified application requires an exception to Goal 3 together with a change in the zone designation from Special Agriculture (SA) to Acreage Residential Ten Acre Minimum (AR-10), with a partition of the 20.46 acre subject property into two parcels of 10.46 acres and 10 acres.
7. The scope of the remand hearing should be limited to the issues upon which the case was remanded. The basic underpinnings of the LUBA decision include the alleged misconstruction of the law, adequacy of the findings, and the parcels to be allowed. Applicant submitted a supplemental justification including affidavits of Larry Pfennig and Wallace Lien.
8. Larry Pfennig is a lifelong farmer in Marion County, and is the owner of Pfennig Farms, Inc. Mr. Pfennig has been associated with the subject parcel for almost his entire life. Mr. Pfennig states that the subject property does not have a farm well and there are no current water rights associated with the property, which Mr. Pfennig argues limits the parcel's productivity for farm uses. Mr. Pfennig is concerned about the impact of farm uses on the aquifer; that is, that use of water will have an impact on surrounding properties. On the other hand, because of the proximity of small, landscaped lots, the subject property has experienced overspray of landscape irrigation. Mr. Pfennig indicates that overspray from landscaping can result in damage to crops and impact his ability to readily farm the parcel and that he has lost one acre of crop from the overspray. Mr. Pfennig argues that Mr. Pfennig, in declaration and in testimony, provided evidence of conflict between water availability and overspray. Mr. Pfennig testified about an incident in which he lost one acre of crop from overspray from a now non-existing blueberry patch on adjacent property. Mr. Pfennig has not actively farmed the property since 2005

because it was not practical to do so. Mr. Pfennig testified that based on the size of the parcel, the lack of water rights, and conflicts from neighboring properties, farming the property was not productive or cost effective. Mr. Pfennig presented evidence that the impacts from residential neighbors in non-farm uses has generated impacts that conflict with farming. Mr. Pfennig noted trespass, fire damage, overspray, and use of property (horseback riding, walking dogs, motorcycle riding) that results in his property being incompatible with farming. Mr. Pfennig notes the possible introduction of hazards to farming from animals entering the property. Mr. Pfennig recognizes Oregon's Right to Farm protections, but notes that despite his right to farm, doing so on this property does not shield him from conflicts with the nearby residential uses. Mr. Pfennig argues that the limitations of the property itself (water rights, lack of well, size, surrounding residential uses) make farming impractical for the purpose of obtaining a profit. Mr. Pfennig states that as a life long farmer in this area, no farm uses, no matter how the term is defined can practicably be carried on the subject property with houses lining nearly all sides, and some as close as 20 feet from the property line.

9. Larry Pfennig states that on this subject property, he has seen overspray of chemicals that has taken large swaths of property out of production. Mr. Pfennig stated that overspray from adjoining non-farm parcels on the subject property has impacted his ability to have a farming operation on the subject parcel.
10. Wallace Lien, Attorney for Applicant, addressed the affidavits of Larry Pfennig submitted into the record. Mr. Lien addressed the importance of the size of the study area for this application and stated that a smaller study area is important for a neighborhood view of the existing property. Mr. Lien addressed the adjacent properties and indicated that the surrounding areas have a 2.3-acre average, and 12 of out the 13 nearby parcels have a dwelling, and seven of the 13 parcels are one acre or less. Mr. Lien stated that of the thirteen parcels, none are over ten acres in size. The proposed parcels would be significantly larger than surrounding properties. Mr. Lien addressed the difficulties associated with the subject parcel in that it has no irrigation rights and has suffered impacts from neighbors that is not conducive to agricultural use. Mr. Lien noted that the information provided (trespass, fires, overspray) suggests an impracticability to farm. Mr. Lien argues that the size of the parcel and the close proximity of residential uses make contiguous farm uses impractical.
11. Larry Pfennig testified at the hearing. Mr. Pfennig testified that the water from a neighboring operation came forty feet into the property, and ruined approximately one acre of property. Five acres of the subject property were burned by fire. The damage from fire, in addition to ongoing trespass issues, were factors for Mr. Pfennig to determine replanting was not justified after the fire. Mr. Pfennig attempted to farm with a cover crop year after year, and in 2005, quit because there was no profit in it and the neighbors were unhappy with his farming operations. Of the twenty acres, Mr. Pfennig indicated that at best 14-15 acres were farmable. While it is common for property to include non-tillable land, with the lack of irrigation and water rights, the capability of the parcel to be productively farmed is limited. While a specific threshold of profitability is not presented, Mr. Pfennig's experience as a farmer who did farm the

property but quit for practicality and profitability, is accepted as reasonable support for his position.

Mr. Pfennig testified that the land has been used for motorcycle riding, and horseback riding, and that the property is regularly trespassed upon by neighbors with dogs. The property supported a cover crop, but Mr. Pfennig states it is not practical or cost effective to farm the property. Mr. Pfennig also indicated the concern of introduction of parasites or contaminants to the land caused by the trespass by humans and animals.

12. There is a dispute among the parties whether there is an active blueberry farm adjacent to the subject property. Applicant states that the active blueberry farm, Thank You Berry Much Farms is not on adjacent property. Friends of Marion County states that there is an adjacent parcel in active blueberry operation.
13. Roger Kaye, Friends of Marion County, testified at the hearing. Mr. Kaye addressed the submissions by Friends of Marion County, and stated that adjacent property is in active blueberry production, and could accommodate additional blueberry crops. Mr. Kaye addressed the replacement of manufactured home on adjacent property, and stated that with the new septic drain field, additional blueberry production could be supported on adjacent property. Mr. Kaye states that there are an additional 1.25 acres of blueberry production associated with the Thank You Berry Much. Mr. Kaye addressed the study area, and introduced additional submissions that were included in the record.

V. Additional Findings of Fact and Conclusion of Law

1. This is a recommendation to the Marion County Board of Commissioners (BOC). The BOC is the final decision-making authority.
2. Applicant has the burden of proving compliance with all applicable criteria as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).
 “Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicants’ favor, the burden of proof is met and the application is approved.

GOAL EXCEPTION PROCESS

3. Applicant seeks an exception to Statewide Planning Goal 3, Agricultural Lands, to

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remove Goal 3 restrictions. Under OAR 660-004-0005(1), an exception to a statewide planning goal is a comprehensive plan provision. The goal exceptions require an M CCP amendment.

4. OAR 660-004-0005(1) defines an exception as a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
 - (a) *Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*
 - (b) *Does not comply with some or all goal requirements applicable to the subject properties or situations; and*
 - (c) *Complies with ORS 197.732(2), the provisions of OAR 660-004 and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.*

The proposed exceptions are for a specific situation at this 20.46-acre property and do not establish planning and zoning policy generally. OAR 660-004-0005(1)(a) is met.

Applicant proposes residential uses not allowed or conditionally permitted on property designated Special Agriculture and zoned SA. OAR 660-004-0005(1)(b) is met.

5. Under ORS 197.732(2), a local government may adopt an exception to a goal if:
 - a. *The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;*
 - b. *The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*
 - c. *The following standards are met:*
 - A. *Reasons justify why the state policy embodied in the applicable goals should not apply;*
 - B. *Areas that do not require a new exception cannot reasonably accommodate the use;*
 - C. *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*
 - i
 - D. *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

Applicant does not propose physically developed or reasons exceptions under (a) or (c). Applicant requests irrevocably committed exceptions to Goals 3 only. ORS 197.732(2)(b) standards are addressed under OAR 660-004 for the Goal 3 exception.

GOAL 3 EXCEPTION

6. Statewide Planning Goal 3, Agricultural Lands, which seeks to preserve and maintain agricultural lands, applies to the subject property. Applicant seeks an exception to Statewide Planning Goal 3, to remove Goal 3 restrictions. The Goal Exception process requires specific findings justifying why such lands are not available for resource use. There are three types of exceptions to Statewide Goals that may be granted. The first two are based on the concept that the subject property is "physically developed" or "irrevocably committed" to a certain use.

The third is a "reasons" exception where there is a demonstrated need for the proposed use or activity. Applicant posits that the proposal qualifies for an irrevocably committed exception. Residential uses are not allowed under Goal 3.

7. Goal exceptions are governed by Statewide Planning Goal 2. Goal 2 is implemented through Oregon Administrative Rule (OAR) 660-004. The rules applicable to irrevocably committed exceptions are set out in OAR 660-004-0028. Under OAR 660-004-0028(1), a local government may adopt an exception to a goal when the land is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impractical. Pursuant to OAR 660-004-0028(2), whether land is irrevocably committed depends on the relationship between the proposed exception area and the lands adjacent to it.

OAR 660-004-0028 (Overview)

8. OAR 660-004-0028 provides exception requirements for land irrevocably committed to other uses:
- (1) *A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant/actors make uses allowed by the applicable goal impracticable:*
- (a) *A "committed exception" is an exception taken in accordance with ORS 197.732(2)(h), Goal 2, Part 1/(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).*
- (b) *For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.*
- (c) *An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*

- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must therefore address the following:*
- (a) *The characteristics of the exception area;*
 - (b) *The characteristics of the adjacent lands;*
 - (c) *The relationship between the exception area and the lands adjacent to it; and*
 - (d) *The other relevant factors set forth in OAR 660-004-0028(6).*
- (3) *Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:*
- (a) *Farm use as defined in ORS 215.203;*
 - (b) *Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and*
 - (c) *Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).*
- (4) *A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.*
- (5) *Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.*
- (6) *Findings of fact for a committed exception shall address the following/actors:*
- (a) *Existing adjacent uses;*
 - (b) *Existing public facilities and services (water and sewer lines, etc.);*
 - (c) *Parcel size and ownership patterns of the exception area and adjacent lands;*

- (A) *Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other/actors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.*
- (B) *Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;*
- (d) *Neighborhood and regional characteristics;*
- (e) *Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;*
- (f) *Physical development according to OAR 660-004-0025; and*
- (g) *Other relevant factors.*
- (7) *The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The*

applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

OAR 660-004-0028(2)(a) and (b) (Characteristics)

9. The subject property is a 20.46-acre parcel located in the 2400 block of 62nd Avenue SE, Salem, Marion County, Oregon (TBS; R2.W; Section 04A; tax lot 2800). Applicant (Applicant's family) has owned the subject property since 1958. The property is located west of 62nd Avenue SE, south of Macleay Road SE, and north of Culver Drive SE. It is unimproved and has a small amount of frontage on an undeveloped right-of-way identified as Wickiup Street SE. The parcel is zoned SA, is currently being farmed with a cover crop, and is specially assessed for agriculture by the Marion County Tax Assessor's Office.

The site topography is generally flat, with a slight slope to the south. Soils on the subject parcel are composed of Amity (Am), Woodburn (WuA), Concord (Co), and Silverton (SuC) Class II and III silt loam soils that are defined as high value for agriculture. There is an electrical power line that runs along the eastern boundary of the subject property, and a small stand of scrub trees crossing the southern half of the parcel.

10. The subject property does not have water rights or a well for farm use. The subject property has a cover crop, but has not been actively farmed since 2005 because Applicant (and family) determined that it was not practical to farm the property. This determination was based upon conflicting uses with adjacent rural residential parcels, including trespass and damage to property from fires, size of the parcel, actual tillable acreage, and the presence of high voltage electrical power lines.

The lack of irrigation and unique location of the property amount neighboring residences, along with the testimony of Mr. Pfennig support the position that it is too onerous for Mr. Pfennig to continue the agricultural use of the land due to nearby nonfarm uses.

11. The subject property is surrounded by residential uses. The neighboring properties are primarily residential. There is a blueberry farm, Thank You Berry Much Farm at Tax Lot 200 on Map 8.2W.04B. The parcel is not contiguous to the subject property. There is, however, a parcel that is adjacent to the property that Friends of Marion County argue is managed by Thank You Berry Much Farm. Applicant states that this adjacent lot, Tax Lot 3000, was sold to someone who immediately tore out over an acre of blueberries to site a new home. Applicant states that there has been no harvesting of blueberries from the adjacent land in 2020, 2021, or 2022. It is recommended that Applicant present current evidence about farming of blueberries in the immediate area, as well as any evidence tending to indicate that farming in the immediate area is decreasing as a result of the difficulties of farming in a residential area.

There are six parcels immediately adjacent to the east of the subject property between the property and 62nd Avenue SE. These parcels are all one acre or less, are zoned AR, and each contain a non-farm dwelling. To the south is a 2.93 acre parcel that is zone SA with a non-farm dwelling. Immediately adjacent to the west are four parcels that are all zoned SA that range from one-half acre to four acres in size. All of these

parcels have non-farm dwellings. One of these parcels includes a blueberry operation, the size and scope of which is disputed. To the north of the property are two parcels owned by the Applicant that are 9.62 and 2 acres in size. These parcels are also zoned AR, and the 9.62 acre parcel includes a dwelling. These parcels were owned by Applicant prior to the acknowledgment of the Marion County Comprehensive Plan in 1987.

Beyond the immediately adjacent lands, surrounding properties to the west and south of the subject property are also zoned SA and are composed of small to medium sized lots in agricultural and rural residential use. Properties to the north and east are mostly zoned AR and developed with rural residential lots. The parcels north of the subject property, and separated by Macleay Road and zoned SA and are in farm deferral.

Most of the dwellings in the immediate vicinity of the subject property, in both the SA and AR zones, were built prior to the Marion County Comprehensive Plan, and are adjacent to a goal exception area. However, many of the larger parcels were partitioned into one to two acre residential lots after the acknowledgement of the MCCP.

The Oak Meadows Subdivision, which was platted in 1957, is a suburban residential subdivision of one-half acre lots, lies northwest of the subject property. The subject property is part of the Oak Dell Farm Subdivision which was platted in 1914 and includes hobby farms of less than twenty acres. Other parcels in the Oak Dell Farm were further divided to create the one-to-eight-acre rural residential lots located adjacent to 59th Avenue SE, between Macleay Road SE and Culver Drive SE.

12. In the original application, Applicant selected a study area on the basis of all the areas surrounding the subject property on the Assessor Maps. The study area included all property that encompassed 6.23 acres of agricultural, rural residential, and some commercial properties. Applicant notes that LUBA referred to the study area as being “large” but did not indicate how large a study area should be. In order to downsize the study area, Applicant considers only properties that are contiguous to the subject property. Applicant urges that the Department of Land Conservation and Development (DLCD), based on its interpretation of in the prior proceeding, *Scott v. Crook County*, 56 LUBA 691 (2008), that only contiguous properties be subject to the analysis. Applicant encourages that good land use planning requires a wider analysis that adjacent properties, Applicant defers to DLCD given the language of the LUBA remand. Applicant further states that OAR 660-004-0028 makes references to “adjacent uses.” Applicant states that according to www.Merriam-Webster.com, “adjacent” means having a common border and includes “contiguous” as a synonym.
13. The focus of an irrevocably committed exception must be preponderantly on the adjacent properties, rather than any limitations inherent in the subject property itself. *Friends of Linn County v. Linn County*, LUBA (2002-176). Applicant submits an evaluation of existing adjacent uses. The study area includes 13 parcels that total 29.91 acres, for an average parcel size of 2.3 acres. Eleven of the thirteen parcels have houses, and one of those vacant parcels is owned by Applicant. Four of the parcels have the SA zoning and seven have the AR zoning. Only one parcel has farm tax deferral status. Applicant submits a chart (Applicant’s Supplemental Justification on Remand) illustrating the status and use of adjacent properties. Applicant’s chart shows that there is only one

adjacent parcel in farm use. All but two of the adjacent parcels have existing dwellings and each of the dwellings were built prior to the application of comprehensive land use planning. Nine of the parcels have been zoned for Acreage Residential and four for Special Agriculture use. Only TL3000, with the small blueberry field qualified for farm tax deferral.

Applicant argues that the concern about the study area is resolved by use of the review of adjacent lands, but notes that the original study area stands for neighborhood and regional characteristics.

The selected study area is sufficient for the analysis required by OAR 660-004-0028(2). For purposes of the remand as it relates to OAR 660-004-0028, Applicant focuses on an evaluation of existing adjacent uses. This approach is reasonable given Applicant's description of the subject property as the "hole" of a doughnut – Applicant looks to the properties that create the "doughnut" around the subject property, the "hole." The physical features of the property and its uses, and the development pattern of the lands bordering the subject property support a determination that the study area is adequate to consider the property's relationship with adjacent lands.

14. The uses on adjacent properties irrevocably commit the subject property to nonresource use as supported by the statements submitted by Larry Pfennig. Larry Pfennig detailed both in his Affidavit and his testimony conflicts with surrounding uses that are not speculative: overspray, fire, trespass, and aquifer fragility caused by neighboring residential landscaping.

Further, Larry Pfennig does not and cannot rely on the subject parcel to support a commercial agricultural crop. Mr. Pfennig details that he lost an acre of property from irrigation overspray, he lost five acres of property from an actual fire caused trespass and use by surrounding neighbors, Mr. Pfennig details that neighbors have used the subject property to ride motorcycles. Because of the relationship with surrounding uses, not only can the subject property not support commercial agriculture, according to Mr. Pfennig, only a cover crop can be supported on the subject property with no expectation of any financial remuneration.

The size and location of the revised study area presented by Applicant complies with the mandates of OAR 660-004-0028 because it includes a thorough evaluation of adjacent and surrounding lands within a suitable geographic range. The testimony and declaration of Larry Pfennig addresses characteristics of the neighborhood, which in addition to the detailed examination of the study area shown in the analysis submitted in Applicant's Supplemental Justification on Remand, is sufficient to address the criterion.

Specifically, Mr. Pfennig details characteristics of the property that commit the subject property to nonresource use, including small size, lack of water rights for irrigation, access limitations, the presence of high voltage electrical power lines. However, the focus of the exception is with respect to the conflicts with the surrounding properties: irrigation and chemical overspray, trespass by neighbors and their animals, including motorcycles, and risk of fires.

Mr. Pfennig has planted cover crops on the subject property but has not obtained a financial benefit from doing so. Cover crops can be considered a sustainable agricultural practice that can benefit soil structure, pest and weed management. Mr. Pfennig's testimony that it is not cost effective to farm the property, and Mr. Pfennig stopped actively farming years ago. The presence of residential neighbors created economic challenges for Mr. Pfennig including increased costs of farming and increased risk of productivity. While Oregon has a Right to Farm law to protect farmers, Mr. Pfennig could face challenges and legal costs from impacts to residential neighbors.

It is recommended that Applicant provide additional evidence on the impact of the lack of irrigation and trespass by neighbors in his decision to stop farming, and proof that the neighbor's trespass is not the result of his not farming the subject property.

OAR 660-004-0028(2)(c) and (d) (Relationship to exception area and adjacent lands)

15. The LUBA Final Opinion and Order determined that the County misconstrued the law when it "declared the exception area irrevocably committed without undertaking the required analysis of adjacent lands." LUBA stated that the County explained that it determines whether the surrounding area irrevocably commits the subject property to nonresource use before it determines whether the relationship between the surrounding property make the resource use impracticable. LUBA directs that the 660-004-0028 factors must be analyzed before it is possible to conclude that the surrounding property commits the subject property to nonresource use.

OAR 660-004-0028(2)(c) and (d) require an analysis of the relationship between the exception area and the lands adjacent to it, and other relevant factors.

16. OAR 660-004-0028(3) states that local governments are not required to demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goal 3, local governments are required to demonstrate that under OAR 660-004-0028(3)(a) that farm use as defined in ORS 215.203 is impracticable.

As used in that section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. ORS 215.203(2)(a).

While there are other lands in farm use near the subject parcel, the "Thank You Berry Much Farm," there remains dispute whether there are adjacent lands currently in farm use.

Applicant originally stated that the subject property is not currently employed in any farm use, and has not been farmed for decades. In its written rebuttal, Applicant clarified that rather than a commercial crop, the subject property has had a cover crop for the past 20 years, maintained to retain the property's farm tax deferral status. However, there is no evidence that there has been any profitability from harvesting the property.

LUBA determined that to the extent that the County concluded that farming must be at a commercial scale in order to be protected, OAR 660-004-0028(2) and (6) do not include such a requirement. Again, OAR 660-004-0028(2) provides that it is the relationship with adjacent properties that is most relevant. While the characteristics of the proposed exception area must be examined, the focus of the irrevocably committed test is on the relationship between the exception area and adjoining uses, and why that relationship commits the subject property to uses not allowed by the applicable goals. *See Jackson County Citizens League v. Jackson County*, 38 Or LUBA 489, 504-05 (2000).

The subject property need not be able to support a successful commercial farm operation in order to be suitable for farm use. That farm use is not capable of supporting a self-sufficient or "commercial-scale" agricultural operation is not a basis to conclude that farm use of the property is impracticable. *Lovinger v. Lane County*, 36 Or LUBA 1, 17-18, *aff'd* 161 Or App 198, 984 P2d 958 (1999). The Land Use Board of Appeals (LUBA) has held at the term "profit in money" as used in ORS 215.203(2)(a) means "gross income" rather than "profit" in its ordinary sense of net profit. *Brown v. Jefferson County*, 33 Or LUBA 418, 433 (1997), *quoting 1000 Friends v. Benton County*, 32 Or App at 426. In *Brown*, LUBA noted that the appropriate standard for applying the definition of "farm uses" in the context of OAR 660-004-0028 is whether the subject property is "capable, now or in the future, of being 'currently employed' for agricultural production 'for the purpose of obtaining a profit in money.'" *Id.* at 433, *quoting 1000 Friends v. Benton County*, 32 Or App at 426.

Applicant submitted the Affidavit of Larry Pfennig, and Mr. Pfennig's testimony that indicates that the property has not been in commercial farm use since 2005, and that the reason for that is that farming for profit is not practicable based upon the trespass, overspray, irrigation issues, and the loss of acreage in the subject parcel as a result of these issues combined with the subject parcel's characteristics (size, tillable acres, lack of water rights and satisfactory irrigation).

To the extent that the Thank You Berry Much Farm is in current farm use, there is not sufficient evidence in the record to support a conclusive determination that the Thank You Berry Much Farm is actually adjacent to the subject property. Thank You Berry Much Farms is located at 5975 Culver Drive SE, Salem, Oregon. The actual, adjacent parcel at is located at 5989 Culver Drive. Applicant states that this is the adjacent property upon which over an acre of blueberries were removed and no harvest occurred in 2020, 2021, and 2022, which was supported by photographs submitted in Applicant's Open Record Submittal. Friends of Marion County (September 22, 2022 submission) states: "Our research shows that the expanded area could be used to grow another farm crop" and "no evidence that the property is irreparably damaged by the construction of the new dwelling and septic drain field." Friends of Marion County posit that there are other crops that would retain a high return on investment, including hazelnuts. While these suggestions are possible, what could be done on an adjacent (contiguous) property upon which there does not appear to be actual current farm use, is not the focus of the

inquiry. The evidence submitted by Applicant supports a determination that contiguous properties are not in farm use.

OAR 660-004-0018(2)(b)(B)

17. OAR 660-004-0018(2)(b)(B) requires that the proposed exception will not commit adjacent or nearby resource land to uses not allowed by Goal 3.

The property is 20.46 acres in size and is the largest parcel among the SA zoned properties located between Macleay Road SE and Culver Road. According to Tax records, in 2002 the property was being farmed for grass seed. Since 2005, the parcel has been planted in cover crop, but has not been actively farmed since that time. Nearly all of these farm-zoned properties in the adjacent area are currently specially assessed as farmland by the Assessor and are in various types of agricultural production.

Most of the dwellings in the immediate vicinity of the subject parcel, in both the SA zone and the AR zone, were built in the 1960s and early 1970s and review of historical air photos show that use of the farmland has not changed since the area was first developed. The subject parcel is adjacent to Goal Exception Area 21.1 - Macleay, identified in Appendix A of the Marion County Comprehensive Plan. This exception area was already developed with small residential lots at the time the Comprehensive Plan was acknowledged in 1987, although many of the larger parcels were partitioned during the 1980s and 1990s into one-to-two-acre residential lots. Oak Meadows Subdivision, composed of 59th Avenue SE, Tumalo Drive SE and Wickiup Street SE, was platted in 1957 as a suburban residential subdivision of one half acre lots. Oak Dell Farm Subdivision was platted in 1914 and composed of ten 16 to 20 acre hobby farm parcels. The subject parcel is a part of Oak Dell Farm, located at the western edge. The other parcels in Oak Dell Farm were later further divided to create the one-to-eight-acre rural residential lots located adjacent to 59th Avenue SE and east, between Macleay Road SE and Culver Drive SE/ Ganon Street SE, as can be seen on the Exception Area map. The parcel directly north of the subject parcel was originally a portion of Lot I of Oak Dell Farm and later included in the exception area because it was located in between the residentially developed areas of Oak Meadows and Oak Dell Farm, located on the south side of Macleay Road SE. This property has been owned by Applicant since acknowledgement of the Marion County Comprehensive Plan in 1987, and was partitioned in 2007 and again in 2015.

The original study area is considered with respect to whether the exception and implementing zone change would broaden the extent of acreage residential properties.

Applicant provides that 176 of the parcels in the study area are in residential use, and 20 are in commercial or industrial use. There are 160 single family dwellings in the study area. Across the entire study area, the average lot size is 3.45 acres, with the median lot size being just over 2 acres. 131 parcels are less than 2 acres in size, and 51 of those are one acre or less. According to Applicant, 74% of the parcels in the study area are at or under 2 acres in size. The proposal seeks to have two lots that are substantially larger than the adjacent

existing lots.

Of the seven properties west of the subject property on assessor's map 8-2W-04A, two are in farm deferral. Five of the seven are zoned SA, with the other two zoned AR. Moving farther west in Applicant's study area to assessor's map 08-2W-04B, the tax lot immediately west of the blueberry operation, TL 200, is also in farm deferral. Three other tax lots on this map are in farm deferral, and one is in partial deferral. There is insufficient evidence of why the lots are in farm deferral without being actively farmed. However, A property may be in farm deferral because of its zoning and meeting income requirements, even if the lots are idle. The majority of the properties on this map are zoned SA, with the exception of property across Culver Road, which is inside the Salem- Keizer UGB and is zoned IBC (Industrial Business Campus) (TL 700 is zoned SNAR, and Applicant lists "no information available" for TL 500).

Northerly of the subject property, across Macleay Road on assessor's map 7-2W-33, all three tax lots are in farm deferral and range in size from 19.94 to 94.95 acres. All are zoned SA. Heading south in Applicant's study area across the intersection of Culver Road and Deer Park Drive, onto assessor's map 8-2W-04D, 11 of the 19 properties on this map located south of this intersection are in farm deferral, and all are zoned SA. TL 2300 (11.60 acres) on assessor's map 8-2W-04C also lies south of this intersection, is included in Applicant's study area, and is in farm deferral. While the area east of the subject property, between the property and 62nd Ave SE, consists of parcels smaller than one acre containing non-farm dwellings, the areas to the west and south, and to some extent north, include a mixture of residential and small farm use.

The land outside the Macleay Exception Area in all directions was being farmed in the 1980s, when the Comprehensive Plan was acknowledged, and continues to be farmed. Applicant states that the rural residential properties in the adjacent Exception Area irrevocably commit the subject property to non-resource use. Again, Applicant argues that the property is akin to the hole of a doughnut, and based upon the location and lack of irrigation, it is reasonable to consider that this property is committed to nonresource use. The dwellings adjacent to the subject property were built in the early 1970s and the subject parcel has not been actively farmed for decades. Public water and sewer service is not available on the subject property nor could it be provided to the property.

It is essential to this inquiry that Applicant seeks the exception and implementing zone change to allow two parcels of over ten acres; significantly larger than any of the adjacent properties.

The size of the proposed parcels will retain the rural character of the lands and surrounding areas.

Numerous properties in the area are small lots on less than two acres of property. These properties are privately owned, and not available for or in agricultural production. In the study area, there are no true farms adjacent to the subject property. There is conflicting evidence of a blueberry farm operation and whether the blueberry farm is operating on adjacent property. Allowance of the two ten-acre parcels, again significantly larger than all adjacent properties, will not cause a change on the resource land in the area or change the rural character of the surrounding area.

If the subject parcel is approved for a zone change to Acreage Residential, the remaining farm parcels to the west and south will not be at any greater risk of impact from increasing rural residential densities. Opponents argue that removal of the largest farm parcel in that area will reduce the potential for the adjacent farmland to be farmed as a conglomerate. At 20.46 acres, the subject parcel is the largest of the farm parcels located between the Acreage Residential-zoned lands in Exception Area 21.1 and North Santiam Highway and the Salem-Keizer Urban Growth Boundary, providing a buffer between the residential development and the smaller farm parcels to the west and south of the subject parcel. If the subject parcel were to be converted to two ten-acre rural residential lots, the Special Agriculture-zoned farmlands to the west and south would not be at any greater risk of being irrevocably committed to residential use. Larger properties being farmed are too far away to be committed to non-farm use by the proposal.

The proposal meets the criteria for an irrevocably committed exception in OAR 660-004-00028.

STATEWIDE PLANNING GOALS

18. The proposal to amend the Comprehensive Plan must be consistent with the Statewide Planning Goals or seek exemptions to them. The relevance of each goal in this proposal is addressed below.

Goal 1: Citizen Involvement. The notice and hearings process provides an opportunity for citizen involvement. The goal is satisfied.

Goal 2: Land use Planning. The subject application would change the zoning. The Hearings Officer makes a recommendation to the Marion County Board of Commissioners who will make the decision on behalf of the County. Marion County Planning division requested comments from various governmental agencies, and their comments are included. The goal is satisfied.

Goal 3: Agricultural Lands. Applicant seeks an exception, which is addressed in detail herein.

Goal 4: Forest Lands. Since the property is within an incorporated community and are not in MCCP identified forest lands, this goal no longer applies.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources. The Marion County Comprehensive Plan does not identify any significant open spaces, scenic and historic areas and natural resources on the subject property. The goal does not apply.

Goal 6: Air, Water and Land Resources Quality. The subject property is not within an identified air quality area. There is no indication that the property is in the sensitive groundwater overlay zone. The goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards. The subject property is not within an identified floodplain or geologic hazards area. This goal does not apply.

Goal 8: Recreation Needs. No recreational uses of the property are proposed in conjunction with this application. The goal does not apply.

Goal 9: Economic Development. Because this goal focuses on commercial and industrial development, primarily within an urban growth boundary, it does not apply to this proposal.

Goal 10: Housing. This goal applies to housing within an urban growth boundary and, therefore, does not apply to this proposal.

Goal 11: Public Facilities and Services. The subject parcel can be served by a well, and with a showing of feasibility, no urban water service would be necessary. A condition requiring septic permitting would eliminate the need for urban wastewater services. Goal 11 could be satisfied.

Goal 12: Transportation. Goal 12 is implemented through OAR 660.01200060. With an easement to use Whispering Way, the proposed parcels would be served by a single driveway onto Macleay Road. Applicant has also provided alternative access points. This goal can be satisfied with conditions of approval.

Goal 13: Energy Conservation. The energy use of the property will be minimal with the proposed use. This goal is satisfied.

Goal 14: Urbanization. This goal is to provide for an orderly and efficient transition from rural to urban land use and to accommodate an urban population. Applicant modified the request for the AR-2 zone to the AR-10 zone. Because 10 acres are not considered urban in nature, the requirement for a Goal 14 Exception is eliminated, and Goal 14 is satisfied.

Goals 15-19 are not applicable because the subject property is not within the Willamette River Greenway, or near any ocean or coastal-related resources.

19. OAR 660-004-0040(8)(i)(B) permits zoning with as low as a two acre minimum parcel size to be applied to property designated as rural residential after October 4, 2000, if an exception to Goal 14 is taken. The minimum lot size adopted by the county must also be consistent with OAR 660-004-0018.
20. OAR 660-014-0030: The applicants calculate the average parcel size in the adjacent Acreage Residential area to be 3.45 acres and the median parcel size to be 2 acres. In 2000, DLCDC determined that parcels two acres and greater on rural residential land existing at that time was considered rural. Parcels smaller than two acres were determined to be urban. Since the average parcel size of the adjacent Acreage Residential land is greater than 2 acres, it appears to still be rural in nature. Since adjacent lands are still considered to be rural based on DLCDC's rules, that land cannot commit the subject property to urban development. This exception would appear to apply in other circumstances, such as rural residential development in subdivisions with existing smaller than two acres parcel sizes which DLCDC determined to be urban in nature. This circumstance may commit a nearby property to an urban level of development and permit a lot size of less than ten acres to be applied. This proposal retains the rural residential character as the two ten-acre parcels are significantly larger than all adjacent properties.

COMPREHENSIVE PLAN AMENDMENT

21. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). DLCD was notified as required by State Law and Irrevocably committed exception must demonstrate compliance with OAR 660-004-0018(2), which addresses planning and zoning for exception areas. Specifically, the applicant must demonstrate that approval of the exception meets the following requirements: The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and the rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; and the applicant should address whether future residential uses will irrevocably commit adjacent lands zoned Special Agriculture and how it will be compatible with adjacent farm use. It is insufficient to rely on current compatibility with adjacent farm uses since the use of the subject property is proposed to change to residential.

The Marion County Comprehensive Plan (MCCP) establishes procedures to be used when considering plan amendments. Plan changes directly involving 5 or fewer properties will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in MCC 17.123. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 123 of the MCRZO. The subject property is comprised of one parcel of land and the proposal can therefore be considered under the quasi-judicial amendment process.

The proposal must be consistent with applicable policies for Rural Residential developed contained in the comprehensive plan. These policies include:

- a. *Since there is a limited amount of area designated Rural Residential efficient use of these areas shall be encouraged. The minimum lot size in Rural Residential areas existing on October 4, 2000, shall not be less than 2 acres allowing for a range of parcel sizes from 2 to 10 acres in size unless environmental limitations require a larger parcel. Areas rezoned to an Acreage Residential zone after October 4, 2000, shall have a 10 acre minimum lot size unless an exception to Goal 14 (Urbanization) is granted.*
- b. *When approving rural subdivisions and partitionings each parcel shall be approved as a dwelling site only if it is determined that the site: 1) has the capacity to dispose of wastewater; 2) is free from natural hazards or the hazard can be adequately corrected; 3) there is no significant evidence of inability to obtain a suitable domestic water supply; and 4) there is adequate access to the parcel.*
- c. *All residential uses in rural areas shall have water supply and distribution systems and sewage disposal systems which meet prescribed standards for health and sanitation.*

The applicant is proposing to rezone the subject parcel to an Acreage Residential zone with a minimum lot size of less than 10 acres. A Goal 14 exception is not required.

The proposal appears to be consistent with the Rural Residential policies in the Marion County Comprehensive Plan.

ZONE CHANGE CRITERIA

22. Applicant seeks a zone change from SA (Special Agriculture) to AR (Acreage Residential). The criteria for a zone change are found in the Marion County Code Chapter 17.123.060:
- A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies/or the applicable land use classification in the Comprehensive Plan; and*
 - B. *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*
 - C. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*
 - D. *The other lands in the county already designated/or the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*
 - E. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*
23. The proposed zone is appropriate for the Rural Residential Comprehensive Plan designation proposed by Applicant. Applicant has provided sufficient evidence to support a determination that the proposal is consistent with all applicable MCCP goals and policies. MCC 12.123.020(A) is met.
- Applicant’s study of surrounding land uses, density, and pattern of development in the area is discussed above, and the findings are incorporated here. The zone change is appropriate considering the surrounding land uses and the density and pattern of development in the area. MCC 12.123.020(B) is met.
- LDEP included permitting requirements. Applicant has proven that public facilities at a rural level of development are either in place or can be obtained through the permitting process as commented by LDEP. MCC 12.123.020(C) is met.
- G. Utility work within the public right-of-way requires permits from MCPW Engineering.

MCC 12.123.020(D) can be met with an analysis of other lands that are unavailable or not well suited.

The six parcels immediately adjacent to the east of the subject property are one acre or less and are zoned AR. Applicant owns two parcels to the north that are 9.62 and 2 acres in size and are both zoned AR. Properties to the north and east are mostly zoned AR and are developed with rural residential lots. The proposed AR-10 zoning would be compatible with adjacent properties. Any adjacent SA-zoned properties would not likely be impacted by the proposed rezoning. With current code requirements, such as special setbacks, the proposed zone would not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses. MCC 12.123.020(E) is met.

The applicants address the zone change criteria and the proposal appears consistent with the density and pattern of development on nearby land zoned Acreage Residential. A zone change approval is recommended.

PARTITION

24. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres.

The two proposed new parcels will each be at least ten acres each and are consistent with this standard. In addition, the resulting undeveloped parcels, if they can obtain septic approval, appear to be of sufficient size and shape to meet the development standards in the AR zone. The access proposed for the initial two-acre lots would be via Whispering Way SE, a private easement serving two lots to the north of the subject parcel.

25. MCC 17.128.050 establishes special siting standards for dwellings near resource zones:

- (a) *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent for farm use and 200 feet is the standard adjacent to forest uses.*
- (b)
- (c) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

Planning requests a special setback of 300 feet. A special setback can be applied to any approval. Planning does not provide justification for why such a large setback is requested. Applicant opposes the imposition of a 300 foot setback based upon the size of the parcel. Applicant objects to a 300-foot setback because it greatly reduces the building envelope for any new dwelling. There is a 125-foot-wide power easement that runs along the eastern boundary and necessarily limits any construction in that area.

Setbacks are determined from property lines, not easements, but the 125 foot easement ensures a sufficient setback from the eastern boundary. Applicant states that the property is just over 500 feet in total width.

Given the limitations of the subject property, and insufficient factual support for an setback of 200 feet over the standard setback, the standard 100 feet setback is appropriate.

26. MCC 17.128.050 requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. Any approval can be conditioned to meet this criterion.
27. Both parcels would appear to have access to an existing private easement; therefore, no new easement should be required.

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval to change the comprehensive plan designation from Special Agriculture to Rural Residential and to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential), on a 20.46 -acre parcel, then partition that parcel into two lots of 10 and 10.46 acres, located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 4A; tax lot 2800).

Therefore, the Hearing Officer recommends that the Marion County Board of Commissioners **GRANT** the Application subject to the following conditions contained in Exhibit C, that are necessary for the public health, safety, and welfare.

SUPPLEMENTAL FINDINGS AND CONCLUSIONS

Pfennig File No. CP/ZC/P 19-005

The following findings are made in support of the approval decision and as supplement to the findings of Hearings Officer's Recommendation adopted on August 20, 2025 adopted to support the approval decision. In the event any findings or conclusions set forth here are different from or contradictory to the findings or conclusions in the Recommendation, the findings set forth here shall control.

1. The original application in this case seeking a rezone to AR-10 has been modified and the current request approved here is for the AR-2 zone. Given that 10 acre parcels are not considered urban in nature, the requirement for a Goal 14 Exception has been eliminated.
2. The subject property is separated to the east from 62nd Ave. by a series of small lots each with a non-farm dwelling, and all of which are one acre in size or smaller bordering on, and taking access from 62nd Ave. Along the southern boundary of the subject property is a single parcel that is less than 3 acres in size, which is wooded and has a non-farm dwelling and outbuildings on it. This parcel (TL3500, Map 8.2W.4D) encompasses the intersection of 62nd Ave. and Culver Road.
3. To the west of the subject property are 7 parcels, the largest of which is only 4.66 acres in size, 5 of which are 1.25 acres in size or less, and 1 parcel that is 3.17 acres in size. 6 of these 7 parcels have a non-farm dwelling located on them.
4. Property to the north of the subject property is also owned by the Applicant and consists of three non-farm parcels, one of which (TL2700) has the Applicant's dwelling. These parcels were created by PP2012-008, and are not farmed and not on any deferral program.
5. The land to the north and east is planned and zoned Acreage Residential (AR). The subject property, as well as the land to the south and west is planned and zoned Special Agriculture. The city limits of Salem run close to the subject property to south and west. Uses inside the nearby city limits include the Salem Industrial Park, and the Oregon State Correctional Institution.
6. A study of the entire area surrounding the subject property encompassing all tax lots on Assessor Maps 8.2W.04A, 7.2W.33, 8.2W.04D, 8.2W.04B, 8.2W.04C and 8.2W.04BA was performed. This inventory study determined there are 196 buildable Tax Lots, plus four non-buildable parcels. Of the 196 buildable parcels, there are 20 parcels in Commercial or Industrial use and 176 in residential use. There are 160 houses on the 176 residential parcels. This equates to 91% of the residential parcels are already developed with single family dwellings. The study area encompassed 676.23 acres, or 1.06 square miles. The average parcel size in the study area is 3.45 acres. The median parcel size is 2 acres. Of the 176 residential parcels, 131 are under 2 acres in size, and 51 of those are one acre or under in size, this equates to 74% of the parcels in the study are on parcels that are under 2 acres in size. Only 24 of the 196 total parcels are in a resource deferral

program, meaning only 12% of the parcels are in farm use sufficient to qualify for a tax break.

7. While the larger Study Area is helpful in understanding the neighborhood, the actual legal standard of review for an irrevocably committed exception is for a Study Area that involves only a review of parcels that are “adjacent” to the subject property.
8. The adjacent study area includes 13 parcels that total 29.91 acres, for an average parcel size of 2.3 acres. 11 of the 13 parcels have houses, and one of two vacant parcels is owned by the Applicant who will be selling it for the development of an additional rural residential dwelling. Four of these parcels have the SA zoning, and seven have the AR zoning. However, only one parcel has farm tax deferral status. All but two of these adjacent parcels have existing dwellings. With the exception of the replacement dwelling on TL3000, every dwelling on adjacent lands was built prior to the application of comprehensive planning regulations. Nine of the parcels have been zoned for Acreage Residential uses, and 4 for Special Agriculture use. Except for the Applicant owned land, there is only one parcel that exceeds 4 acres in size (TL 3000 which is 4.66 acres). The adjacent lands study includes sufficient information in order to make a determination of compliance with the law in this case.
9. The physical features of the property and its uses, and the development pattern of the lands bordering the subject property support a determination that the adjacent study area is adequate to consider the property’s relationship with adjacent uses. The combination of the larger Study Area for area analysis and the adjacent Study Area satisfies all review requirements for an irrevocably committed exception analysis.
10. The testimony and affidavit of Larry Pfennig are compelling, believed and adopted here as factual findings because Mr. Pfennig is the farmer who has attempted to keep the subject property in farm use, but based on several issues has determined that farming is simply impractical on the subject property. Mr. Pfennig is a long time farmer in Marion County, farming many properties in addition to the subject property. He is a generational farmer, working the land his entire life. His experience in Marion County is unchallenged, as is his testimony. Mr. Pfennig is a life long farmer in the Marion County area, farming here for over 50 years. He farmed for his father originally, and then as a partner with him, and now as the owner of the farm corporation, Pfennig Farms, Inc. During his career he has farmed in all phases of agriculture, including operation of all kinds of farm equipment, and engaged in field preparation, maintenance and harvesting. He has been a grass seed farmer, and over the years has grown all kinds of grains, clover, alfalfa and fruit trees. He has operated and owned and constructed grass seed cleaning plants. He has a commercial drivers license, and has been licensed over the years for application of pesticides and fertilizers. In addition to farming for himself, he has contracted out his equipment and services to other land owners for farming services.
11. The lack of water on the subject property as a critical issue for the impracticability of farming it, as well as overspray from neighboring properties and significant trespass due to the location adjacent to non-farm houses and busy streets. The risk of fire to dry land

crops is very high making liability a tremendous problem, and obtaining affordable liability and fire insurance impossible. Chemical overspray from adjoining properties presents an additional problem for growing any kind of crop on the subject property. Larry Pfennig's Affidavit addresses the subject property's relationship with surrounding parcels and presents sufficient evidence that farming is impracticable on the subject property. Mr. Pfennig's statements are based on his experience as a life-long farmer, and present sufficient factual support to approve the application.

12. When considering the compatibility criteria the irrevocably committed exception needs to focus on both the irrevocably committed aspect of the adjacent farm use, but also the converse, that is to say the future residential use of the subject property. The evidence and findings support the irrevocably committed exception as to farm use. There is little to no difference in this case, whether the subject property lies fallow as it has for the last 20 years, or it has two houses on it. It is the impact on the surrounding properties that is evaluated not the subject property itself. Therefore it doesn't really matter if the subject property is vacant or with 2 houses. The key is if that difference will have any adverse impact on the adjacent properties such that they would become also irrevocably committed. If two houses are built on the subject property, each on a 10 acre tract, and the houses are setback 100 feet from the property line, there will be sufficient separation between the two new homes and the adjacent uses. The subject property is 508 feet wide. That means that a house placed near the center of the property would have separation of at least 200 feet on each side with a 100 foot wide area for house, garage and outbuildings if desired. All of the adjacent properties to the east along 62nd Avenue are located very close to the property line, some as close of 20 feet. The home to the south is located approximately 175 feet from the property line. The new manufactured home on the property to the west is approximately 100 feet from the property line with the subject property. The only other home adjacent to the subject property is located to the north of TL3000 and it is approximately 125 feet from the property line. Based on these facts, no new house on the subject property would come within 120 feet of any other house, and many would be 200 - 275 feet away. The surrounding area is populated by a large number of small tract parcels, most with houses, and most developed prior to the imposition of zoning restrictions. Little land use has changed in the area, meaning that for decades small tract homesite have been compatible with adjacent farm tracts with no pressure for long term land use conversion. The parcels to the east between the subject property and 62nd Avenue are all one acre or smaller in size and with non-farm dwellings. There can be no issue with irrevocably committing those parcels. The same is true for the somewhat larger non-farm tracts to the north and south. That leaves only 2 parcels that need to be addressed. TL 2900 and 3000, both of which have houses and outbuildings and some open land adjacent. Since there is a power line across the middle of the subject property any house on the southern portion of the property will be located south of those lines, meaning the house will be in the same general area as the new manufactured home on TL3000, but at least 325 feet away. The house on the northerly parcel will be centrally located north of the power lines, and most likely 500 feet away from the house on TL2900. The two new homes will not irrevocably commit those two easterly parcels because each will be 10 acres, which is over twice as large as TL2900 (3.17 acres) and TL3000 (4.66 acres). The only two adjacent parcels that can be

considered here are those two parcels to the east, and TL3000 is too small even to be divided into two acre urban type parcels because it is not over 4 acres in size. The only intensification of uses that are possible from approval of this application is a zone change to AR-2. Where the intensification of zoning will not allow even a land division, the only conclusion that can be drawn is that the change approved here to AR-10 will not have any impact on the future of TL2900. TL3000 is slightly over four acres and therefore conceivably could be partitioned into two parcels if rezoned to AR-2. However, TL3000 is bordered already on three sides by small urban sized parcels, and if it were to be urged to partition, that would be because of the other adjacent parcels and not because of the creation of the much larger 10 acre parcels proposed here. This land use change and the associated partition will not irrevocably commit any adjacent property to non-farm uses. That is the case whether one looks at the subject property and its impacts presently, or in the future with two houses each one on a 10 acre tract.

13. For the last 20 years, the subject property has had a cover crop in order to keep the weeds down and the property looking halfway decent. During this period of time the Applicant has not intended to make money from the cover crop, and in fact has never received any money whatsoever from the cover crop. The definition of "farm use" is the current employment of land for the primary purpose of obtaining a profit in money. Profit is not defined in the normal sense of excess revenue over expenses, but the generation of any revenue at all. In this case there is no intent to use the land for the primary purpose of generating money, and in fact no money has been generated. Based on these facts, the law here clearly provides that the subject property is not in "farm use", and hasn't been for over 20 years.
14. The testimony and evidentiary facts submitted by Mr. Lien and Mr. Pfennig are adopted as findings to support the decision made herein, and any evidence or allegation that are contrary are not adopted as facts and are rejected here.
15. The ability to have water to irrigate crops is critical. Applicant has experienced many conflicts with neighbors, including impact of farm uses on the aquifer, both from the farm wells, and to the farm wells. The subject property does not have a farm well, and there are no current water rights associated with it. Water also comes into play when neighbors overspray their own landscaping irrigation onto the farm field and damage or retard crops. These issues are particularly prevalent along the eastern boundary where the parcels are very small and landscaping, decks and house are within just a few feet from the boundary line of the subject property. If it were just one parcel, the impact might not be so bad, but here, we have 6 parcels along the eastern boundary and another on the southwestern boundary. Water conflicts of availability and overspray are real and not speculative.
16. Evidence in the record demonstrates that trespass on the subject property is prevalent. The trespassers almost always have dogs that have to be walked or get loose, utilizing the property as a public open space. Trespass creates additional liability that increases risk and add to the cost of insurance.

17. The size of the proposed parcels (10+ acres) will retain the rural character of the lands and surrounding areas, and will act as a continuing buffer between the small parcels to the east and the Special Agriculture zoned properties to the west.
18. Allowance of the two ten-acre parcels, again significantly larger than all adjacent properties, will not cause a change on the resource land in the area or change the rural character of the surrounding area.
19. Two ten-acre rural residential lots approved here will not be at any greater risk of being irrevocably committed to residential use because of this approval.
20. There is no active viable blueberry operation on lands adjacent to the subject property operated by Thank You Berry Farm. The Thank You Berry Farm is located further to the west and is not on adjacent property. There is no active viable blueberry farm production on any adjacent parcel.

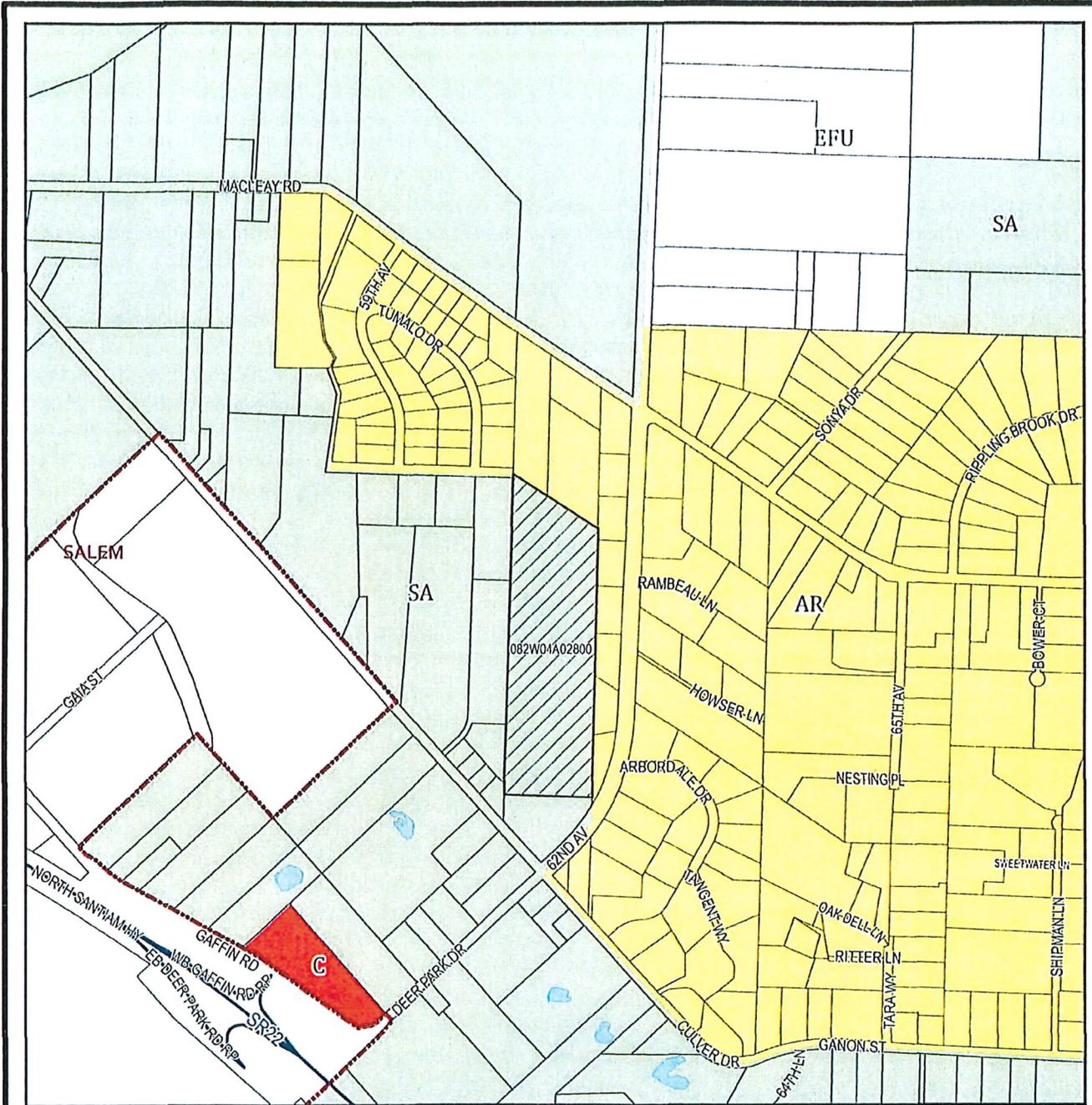
Conditions of Approval

- 1) The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 19-001. Following plat approval it shall be recorded with the Marion County Clerk.
- 2) Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.
- 3) The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.
- 4) Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
- 5) On the plat, show sufficient right-of-way dedication to serve the future AR-10 lots.
- 6) Prior to plat approval, provide a notarized Road Maintenance Agreement (RMA) regarding the proposed shared access easement.

Prior to the issuance of building permits on the parcels:

- 7) The partition plat shall be recorded.
- 8) The applicant shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
- 9) Any dwelling shall maintain 100-foot setback from land in farm use to the west and southwest.
- 10) In accordance with Marion County Code 11.10, a driveway "Access Permit" for access to the public right-of-way will be required upon application for a building permit for a new dwelling. Driveways must meet sight distance, design, spacing, and safety standards.

- 11) The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-1 OR and #98-40R, respectively.
- 12) Utility work within the public right-of-way requires permits from MCPW Engineering.
- 13) The subject property is situated within Marion County's DEQ-defined Stormwater Management Area (SMA). Marion County has been delegated authority by DEQ to operate a NPDES 1200-CN program for ground disturbing activities of 1 to under 5 acres. An Erosion Prevention & Sediment Control (EPSC) Permit will be required to put in the access easement. Individual lot home construction will also require a permit for each lot unless done under an aggregate EPSC Permit.
- 14) The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum ten acres in size, prior to any right-of-way dedication.
- 15) It is recognized that the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 10.0 acres prior to any required right-of-way dedication.
- 16) After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
- 17) The applicant should contact Marion County Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
- 18) The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories that may be required.



ZONING MAP

Input Taxlot(s): 082W04A02800

Owner Name: HENRY O & LOIS M PFENNIG TR &
 Situs Address: (No Situs Address)
 City/State/Zip: SALEM, OR, 97317
 Land Use Zone:
 School District: SALEM-KEIZER
 Fire District: MARION COUNTY #1

<p>Legend</p> <ul style="list-style-type: none"> Input Taxlots Lakes & Rivers Highways Cities 		
<p>N</p>  <p>scale: 1 in = 846 ft</p>	<p><small>DISCLAIMER This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.</small></p>	



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/24/2025

Department: Community Services

Title: 2024-2025 CDBG and HOME CAPER Approval

Management Update/Work Session Date: 8/26/2025 Audio/Visual aids []

Time Required: 10 minutes Contact: Steve Dickey Phone: 503-373-4334

Requested Action: Conduct a public hearing followed by Board Action to approve the 2024-2025 Consolidated Annual Performance Evaluation Report (CAPER)

Issue, Description & Background: The Consolidated Annual Performance Evaluation Report (CAPER) is required under the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME). The CAPER provides a report of the status of each active project funded through CDBG and HOME, public outreach efforts, and accomplishments through funding these projects. Activities associated with funding through program year 2024-2025 are included in this CAPER. Program highlights include: Church at the Park - Commercial kitchen equipment facility renovation, Santiam Hospital - New ambulance facility, Chemeketa Community College - Housing cost assistance, City of Mt. Angel - Street and sidewalk rebuild, Silverton Area Community Aid - Renovation of a owned facility, CASA of Marion County - Service expansion support, Residential Homeowner Rehabilitation Program - 29 additional (34 total) homes rehabbed and 7 more in progress, Home Buyer Assistance - 8 additional (13 total)

Financial Impacts: Year-end report only, no financial impact

Impacts to Department & External Agencies: None

List of attachments: Attachment #1 Draft CAPER, Attachment #2 Resolution, Attachment #3 Copy of the Public Notice

Presenter: Steve Dickey

Department Head Signature: [Handwritten Signature]



MEMORANDUM

TO: Marion County Board of Commissioners
FROM: Steve Dickey, CDBG/HOME Program Manager
MEETING DATE: September 24, 2025, Board of Commissioners Meeting

2025-2026 CDBG/HOME CAPER Approval

2025-2026 CDBG/HOME Annual Action Plan Overview

The Consolidated Annual Performance Evaluation Report (CAPER) is required under the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME). The CAPER provides a report of the status of each active project funded through CDBG and HOME, public outreach efforts, and accomplishments through funding these projects. Activities associated with funding through program year 2024-2025 are included in this CAPER.

There was a 15-day public comment period which started on September 4, 2025 and closed on September 18, 2025. No comments were by the close of the public comment period.

2024 – 2025 CDBG / HOME PROJECT TABLE

CDBG

Agency	Project and Status	Total Funding
Church at the Park	Facility renovation and commercial kitchen equipment purchase – In Progress	\$250,000
Santiam Hospital	Design and Construct a New Ambulance Facility – In Progress	\$250,000
Chemeketa Community College	Housing Cost Assistance for Low- to Moderate-Income Students – In Progress	\$75,000
City of Mt. Angel	Rebuild Street and Sidewalks for LMI Neighborhood – In Progress	\$500,000
Silverton Community Aid	Facility Remodel for a New Community Services Center Location – In Progress	\$250,000
CASA of Marion County	Operating support for expansion of services – In Progress	\$75,100
Marion County	Homeowner Residential Rehabilitation Program – 29 additional (34 total), 7 more in progress	\$158,499
Marion County	Program Administration - Complete	\$279,366
	TOTAL	\$1,996,464

HOME

Agency	Project	Total Funding
Marion County	Homebuyer Assistance Loan Program – 8 additional (13 total)	\$382,375
Marion County	Community Housing Development Organization (CHDO) Set-aside - Pending	\$76,475
Marion County	Program Administration - Complete	\$50,983
	TOTAL	\$509,833

REQUESTED ACTION

Staff requests the Board of Commissioners approve the 2024-2025 CAPER through a public hearing and subsequent Board Action.

NEXT STEPS

Once the CAPER has been approved it will be submitted to HUD. The deadline for submission is September 28, 2025, but due to that date occurring on a Sunday, it will need to be submitted no later than Friday, September 26, 2025.

ATTACHMENTS

- Attachment 1 – Draft CAPER
- Attachment 2 – Resolution No. 25-XX
- Attachment 3 – Public Notice

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

This was the second year of operation for Marion County's homeowner rehabilitation program and homebuyer assistance programs. These have proven to be valuable and successful within the county. In addition, some of the construction/renovation projects are underway.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee’s program year goals.

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Encourage Economic Opportunities	Non-Housing Community Development	CDBG: \$	Businesses assisted	Businesses Assisted	0	0				
Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	1500	1230	82.00%	100	271	271.00%
Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	0	0		50	0	0.00%

Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Homeless Person Overnight Shelter	Persons Assisted		261				
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	10		0	10	
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Rental units constructed	Household Housing Unit	0	0				
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Homeowner Housing Rehabilitated	Household Housing Unit	35	14	40.00%	9	26	288.89%
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Direct Financial Assistance to Homebuyers	Households Assisted	15	12	80.00%	3	8	266.67%
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Homelessness Prevention	Persons Assisted	0	10		0	10	
Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	800	50	6.25%	3620	0	0.00%

Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Homeless Person Overnight Shelter	Persons Assisted	0	0				
Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Overnight/Emergency Shelter/Transitional Housing Beds added	Beds	15	13	86.67%			
Provide for CHDO Set-Aside	Affordable Housing	HOME: \$	Homeowner Housing Added	Household Housing Unit	0	0		1	0	0.00%
Provide for CHDO Set-Aside	Affordable Housing	HOME: \$	Other	Other	5	0	0.00%			
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	0				
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Rental units constructed	Household Housing Unit	0	0				
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Homeowner Housing Added	Household Housing Unit	0	0				

Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Homeowner Housing Rehabilitated	Household Housing Unit	0	0				
Support Program Success	Non-Housing Community Development	CDBG: \$ / HOME: \$	Other	Other	0	0				

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction’s use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

Marion County has now used CDBG funds for homeowner rehab and HOME funds for homebuyer assistance to address increasing the availability and affordability of housing. The rehab program is intended to provide a stable living environment and prevent homelessness. Homebuyer assistance is allowing families an opportunity to purchase their own home, which helps stabilize their future housing needs and expenses. In addition, CDBG funds have been allocated to several organizations to improve some infrastructure and facilities that serve LMI populations-such as a food pantry and resource center, homeless shelter facility, and a low-income area that will now have walkable sidewalks, lighting, re-paved parking and storm drainage

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG	HOME
White	189	8
Black or African American	14	1
Asian	5	0
American Indian or American Native	1	0
Native Hawaiian or Other Pacific Islander	8	1
Total	217	10
Hispanic	125	4
Not Hispanic	92	6

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

DRAFT

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	1,837,964	2,199,682
HOME	public - federal	509,833	1,106,162

Table 3 - Resources Made Available

Narrative

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
LMI Areas			LMI Areas
Marion County Service Area	100		Service Area

Table 4 – Identify the geographic distribution and location of investments

Narrative

DRAFT

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

Marion County provided \$350,000.00 of funding to an organization that establishes and maintains transitional housing.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	497,148
2. Match contributed during current Federal fiscal year	350,000
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	847,148
4. Match liability for current Federal fiscal year	263,358
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	583,790

Table 5 – Fiscal Year Summary - HOME Match Report

Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match
County Contribution (Opioid Funding)	0	350,000	0	0	0	0	0	0

Table 6 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at begin-ning of reporting period \$	Amount received during reporting period \$	Total amount expended during reporting period \$	Amount expended for TBRA \$	Balance on hand at end of reporting period \$
0	0	0	0	0

Table 7 – Program Income

Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	Minority Business Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Contracts						
Dollar Amount	0	0	0	0	0	0
Number	0	0	0	0	0	0
Sub-Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0
	Total	Women Business Enterprises	Male			
Contracts						
Dollar Amount	0	0	0			
Number	0	0	0			
Sub-Contracts						
Number	0	0	0			
Dollar Amount	0	0	0			

Table 8 - Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	Minority Property Owners				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

Table 9 – Minority Owners of Rental Property

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition						
Parcels Acquired		0		0		
Businesses Displaced		0		0		
Nonprofit Organizations Displaced		0		0		
Households Temporarily Relocated, not Displaced		0		0		
Households Displaced	Total	Minority Property Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Cost	0	0	0	0	0	0

Table 10 – Relocation and Real Property Acquisition

DRAFT

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	12	34
Number of Special-Needs households to be provided affordable housing units	0	0
Total	12	34

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	9	26
Number of households supported through Acquisition of Existing Units	3	8
Total	12	34

Table 12 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

Marion County was fortunate to have great community partners that helped implement these programs and reach the recipients that qualified and were in need of these supportive programs.

Discuss how these outcomes will impact future annual action plans.

This demonstrates the great need in our community for these programs. We hope these programs will continue.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	18	0
Low-income	7	1
Moderate-income	1	7
Total	26	8

Table 13 – Number of Households Served

Narrative Information

DRAFT

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Marion County actively participates in the Continuum of Care and is looking for ways to help reduce homelessness as it was a priority identified in the Consolidated Plan.

Addressing the emergency shelter and transitional housing needs of homeless persons

Marion County provided funds to an organization to purchase an additional transitional home for women with or without children. CDBG dollars have funded 2 transitional homes and the county has provided funding for 2 in the past 4 years.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The transitional housing projects previously mentioned are specifically targeted to serving these populations.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Marion County actively participates with agencies that are working to help homeless persons transition to permanent housing and independent living. The transitional housing projects previously mentioned are targeted to serving these populations.

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

Marion County staff works closely with the public housing authority on potential projects. It will continue to grow its collaboration in years to come as the CDBG/HOME Program can be a financial partner to future public housing projects if so desired.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

Marion County is working with community partners to find ways for public housing residents to become homeowners. This group of community partners includes housing authorities, county and city governments, private investors, financial institutions, and developers. Marion County Housing Authority actively promotes and encourages self sufficiency programs that help residents on the path to be successful renters and pursue home ownership if they choose.

Actions taken to provide assistance to troubled PHAs

Marion County Housing Authority is not a troubled agency.

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CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Marion County is actively pursuing ways to help cities meet the growth challenges in Oregon. Marion county is analyzing ways to help alleviate affordable housing barriers throughout the county and is willing to work with any jurisdictions where issues may arise. Marion County will remain a partner in helping to educate and alleviate barriers to affordable housing including but not limited to analyzing ways to purchase land to help ease the cost to build housing.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

Marion County participates with community partners to help address obstacles for underserved communities, including providing technical assistance whenever possible. This year, CDBG funds were allocated to 3 projects that are expanding services and their reach within their respective communities. These activities are aimed at reaching out to underserved areas and providing assistance and includes a food pantry/resource center, an advocacy group for children and a homeless shelter/resource center

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

Marion County is committed to reducing any lead-based paint hazards when situations arise. At this time there were no projects that warranted lead-based paint concerns. The homeowner residential rehabilitation program is operational and housing is tested as required by HUD

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Marion County recognizes the importance of upward mobility for poverty-level families. It is important to the County to help families gain financial stability by homeownership. This is part of the intent for the down payment assistance program. Marion County has adjusted the program design to improve the opportunity for families to reach homeownership.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

As this program is still in the early years of establishment, the institutional structure continues to evolve to best fit the needs of the community.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

Marion County is engaging with community partners to enhance coordination between public, private, and social service agencies. Participants include housing authorities, local governments, private donors, financial institutions, developers, shelters, food banks, and other social service agencies.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

In the five-year Consolidated Plan, there were four key fair housing goals identified in the analysis of impediments. Those four goals were to promote affordable homeownership and rental opportunities, promote community development activities in areas with higher rates of poverty, promote community and service provider knowledge of ADA laws, and increase outreach and education for housing providers in the county and the public. As the county develops the CDBG/HOME program it continues to build partnerships with community organizations that share the common goal of supporting and improving fair housing practices in Marion County.

DRAFT

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

Marion County continues to ensure that subrecipients and projects meet all applicable program requirements as determined by the funding source and the type of project funded. Additionally, oversight will continue to monitor adherence to project scope, schedule, and budget. A combination of data collected in quarterly reports, annual reports, data utilized in shared database project management systems, annual audits (if applicable), and site visits will provide a comprehensive overview of monitoring the subrecipient's performance. Red flags in scheduled reports or complaints filed against the subrecipient will automatically trigger a site visit to thoroughly investigate the issue.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

Marion County continues to seek ways to provide the public with opportunities to provide input. This can include partnering with other agencies conducting public events to have a presence, scheduling regular public input meetings, and participating in events with a broad range of public attendance. The public comment period for the CAPER was held from August 20, 2025 to September 4, 2025, with the Public Hearing held on September 10, 2025.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

None

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

DRAFT

CR-50 - HOME 24 CFR 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in 24 CFR §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

N/A

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 24 CFR 91.520(e) and 24 CFR 92.351(a)

N/A

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

Marion County received \$50,000 in program income from the sale of property that had received homeowner rehab funds and it was put back into the homeowner rehab program.

Describe other actions taken to foster and maintain affordable housing. 24 CFR 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 24 CFR 91.320(j)

Marion County has established a down payment assistance program, and a homeowner residential rehabilitation program. These two programs are intended to increase opportunities for affordable home ownership, and the ability to stay in homes already occupied by LMI populations.

CR-58 – Section 3

Identify the number of individuals assisted and the types of assistance provided

Total Labor Hours	CDBG	HOME	ESG	HOPWA	HTF
Total Number of Activities	0	0	0	0	0
Total Labor Hours					
Total Section 3 Worker Hours					
Total Targeted Section 3 Worker Hours					

Table 14 – Total Labor Hours

Qualitative Efforts - Number of Activities by Program	CDBG	HOME	ESG	HOPWA	HTF
Outreach efforts to generate job applicants who are Public Housing Targeted Workers					
Outreach efforts to generate job applicants who are Other Funding Targeted Workers.					
Direct, on-the job training (including apprenticeships).					
Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.					
Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).					
Outreach efforts to identify and secure bids from Section 3 business concerns.					
Technical assistance to help Section 3 business concerns understand and bid on contracts.					
Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.					
Provided or connected residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.					
Held one or more job fairs.					
Provided or connected residents with supportive services that can provide direct services or referrals.					
Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.					
Assisted residents with finding child care.					
Assisted residents to apply for, or attend community college or a four year educational institution.					
Assisted residents to apply for, or attend vocational/technical training.					
Assisted residents to obtain financial literacy training and/or coaching.					
Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.					
Provided or connected residents with training on computer use or online technologies.					
Promoting the use of a business registry designed to create opportunities for disadvantaged and small businesses.					
Outreach, engagement, or referrals with the state one-stop system, as designed in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.					

Other.					
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Table 15 – Qualitative Efforts - Number of Activities by Program

Narrative

Marion County did not fund any projects that required Section 3 reporting.

DRAFT

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

In the matter of adopting the)
Program Year 2024-2025 Consolidated)
Annual Performance Evaluation Report)
for the Community Development Block)
Grant and HOME Investments Partnership)
Program)

RESOLUTION # _____

This matter was presented to the Board of Commissioners at its Management Update on August 26, 2025, to adopt the Community Development Block Grant and HOME Investment Partnerships Programs Program Year 2024-2025 Consolidated Annual Performance Evaluation Report (CAPER).

WHEREAS Marion County, as an entitlement jurisdiction, under 24 CFR 91.520 is required to submit a CAPER to the United States Department of Housing and Urban Development. The performance report must include a description of the resources made available, the investment of available resources, the geographic distribution and location of investments, the families and persons assisted (including the racial and ethnic status of persons assisted), actions taken to affirmatively further fair housing, and other actions indicated in the strategic plan and the action plan.

WHEREAS Marion County, as an entitlement jurisdiction, is required by 24 CFR 91.520 to submit the CAPER to The United States Department of Housing and Urban Development within 90 days from the end of its most recent program year.

WHEREAS Marion County published a public notice of a fifteen-day period for public comment on the draft 2023-2024 program year CAPER. This fifteen-day period was from September 4, 2025 through September 18, 2025.

WHEREAS as part of the process for adopting a CAPER Marion County must hold a public hearing to take any additional comments on the draft CAPER. Comments are offered for consideration in clarification of information provided in the CAPER. This public hearing occurred on September 24, 2025.

IT IS HEREBY ORDERED that the Board of Commissioners approve the Program Year 2024-2025 Consolidated Annual Performance Evaluation Report to be submitted to the United States Department of Housing and Urban Development prior to the September 28, 2025, deadline.

DATED at Salem, Oregon, this 24th, day of September 2025.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

PUBLIC NOTICE

NOTICE OF PUBLIC HEARING-DATE CHANGE

Notice of Public Hearing and Comment Period on Marion County's Consolidated Annual Performance and Evaluation Report (CAPER)

Marion County's Community Development Division announces a 15-day comment period on its 2024 Consolidated Annual Performance and Evaluation Report (CAPER), prior to the submission of the report to the U.S. Department of Housing and Urban Development (HUD). The public comment period is September 4, 2025 – September 18, 2025. The Draft CAPER report can be found at: www.co.marion.or.us/CS/Pages/Community-Development. The CAPER summarizes annual accomplishments and assesses progress toward meeting the vision in the Consolidated Plan for the use of Community Development Block (CDBG) and HOME Investment Partnership funds.

A public hearing will be held on Wednesday, September 24, 2025 at 9:30 a.m. in the Senator Hearing Room located at 555 Court Street NE, Salem OR. 97301.

Comments may be submitted in writing from September 4, 2025 through September 18, 2025 to Steve Dickey, CDBG/HOME Program Manager, P.O. Box 14500 Salem, OR. 97309 or sent via e-mail to: sdickey@co.marion.or.us.

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, please call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168

AVISO PÚBLICO

AVISO DE AUDIENCIA PÚBLICA-CAMBIO DE FECHA

Aviso de Audiencia Pública y Periodo de Comentarios sobre el Informe Anual Consolidado de Rendimiento y Evaluación del Condado de Marion (CAPER)

La División de Desarrollo Comunitario del Condado de Marion anuncia un período de comentarios de 15 días sobre su Informe Anual Consolidado de Rendimiento y Evaluación (CAPER) de 2024, antes de la presentación del informe al Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos (HUD). El período de comentarios públicos es del 4 de septiembre de 2025 al 18 de septiembre de 2025. El borrador del informe CAPER se puede encontrar en: www.co.marion.or.us/CS/Pages/Community-Development. El resumen del CAPER resume los logros anuales y evalúa el progreso hacia el cumplimiento de la visión en el Plan Consolidado para el uso los fondos de Subvención en Bloque para el Desarrollo Comunitario (CDBG) y Programa de Sociedades para la Inversión de Vivienda (HOME).

Se celebrará una audiencia pública el miércoles 24 de septiembre de 2025 a las 9:30 a.m. en la Sala de Audiencias del Senador ubicada en 555 Court Street NE, Salem OR. 97301

Los comentarios pueden presentarse por escrito el 4 de septiembre de 2025 hasta el 18 de septiembre de 2025 a Steve Dickey, Gerente del Programa CDBG/HOME, P.O. Box 14500 Salem, OR. 97309 o por correo electrónico a sdickey@co.marion.or.us.

Si necesita servicios de interpretación, un equipo auditivo, material copiado en letra grande o cualquier otra acomodación, por favor llame al 503-588-5212 al menos 48 horas antes de la reunión. TTY 503-588-5168



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/24/2025

Department: Community Services

Title: 2024-2025 CDBG and HOME CAPER Approval

Management Update/Work Session Date: 8/26/2025 Audio/Visual aids []

Time Required: 10 minutes Contact: Steve Dickey Phone: 503-373-4334

Requested Action: Conduct a public hearing followed by Board Action to approve the 2024-2025 Consolidated Annual Performance Evaluation Report (CAPER)

Issue, Description & Background: The Consolidated Annual Performance Evaluation Report (CAPER) is required under the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME). The CAPER provides a report of the status of each active project funded through CDBG and HOME, public outreach efforts, and accomplishments through funding these projects. Activities associated with funding through program year 2024-2025 are included in this CAPER. Program highlights include: Church at the Park - Commercial kitchen equipment facility renovation, Santiam Hospital - New ambulance facility, Chemeketa Community College - Housing cost assistance, City of Mt. Angel - Street and sidewalk rebuild, Silverton Area Community Aid - Renovation of a owned facility, CASA of Marion County - Service expansion support, Residential Homeowner Rehabilitation Program - 29 additional (34 total) homes rehabbed and 7 more in progress, Home Buyer Assistance - 8 additional (13 total)

Financial Impacts: Year-end report only, no financial impact

Impacts to Department & External Agencies: None

List of attachments: Attachment #1 Draft CAPER, Attachment #2 Resolution, Attachment #3 Copy of the Public Notice

Presenter: Steve Dickey

Department Head Signature: [Handwritten Signature]

IT IS HEREBY ORDERED that the Board of Commissioners approve the Program Year 2024-2025 Consolidated Annual Performance Evaluation Report to be submitted to the United States Department of Housing and Urban Development prior to the September 28, 2025, deadline.

DATED at Salem, Oregon, this 24th, day of September 2025.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



MEMORANDUM

TO: Marion County Board of Commissioners
FROM: Steve Dickey, CDBG/HOME Program Manager
MEETING DATE: September 24, 2025, Board of Commissioners Meeting

2025-2026 CDBG/HOME CAPER Approval

2025-2026 CDBG/HOME Annual Action Plan Overview

The Consolidated Annual Performance Evaluation Report (CAPER) is required under the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME). The CAPER provides a report of the status of each active project funded through CDBG and HOME, public outreach efforts, and accomplishments through funding these projects. Activities associated with funding through program year 2024-2025 are included in this CAPER.

There was a 15-day public comment period which started on September 4, 2025 and closed on September 18, 2025. No comments were by the close of the public comment period.

2024 – 2025 CDBG / HOME PROJECT TABLE

CDBG

Agency	Project and Status	Total Funding
Church at the Park	Facility renovation and commercial kitchen equipment purchase – In Progress	\$250,000
Santiam Hospital	Design and Construct a New Ambulance Facility – In Progress	\$250,000
Chemeketa Community College	Housing Cost Assistance for Low- to Moderate-Income Students – In Progress	\$75,000
City of Mt. Angel	Rebuild Street and Sidewalks for LMI Neighborhood – In Progress	\$500,000
Silverton Community Aid	Facility Remodel for a New Community Services Center Location – In Progress	\$250,000
CASA of Marion County	Operating support for expansion of services – In Progress	\$75,100
Marion County	Homeowner Residential Rehabilitation Program – 29 additional (34 total), 7 more in progress	\$158,499
Marion County	Program Administration - Complete	\$279,366
	TOTAL	\$1,996,464

HOME

Agency	Project	Total Funding
Marion County	Homebuyer Assistance Loan Program – 8 additional (13 total)	\$382,375
Marion County	Community Housing Development Organization (CHDO) Set-aside - Pending	\$76,475
Marion County	Program Administration - Complete	\$50,983
	TOTAL	\$509,833

REQUESTED ACTION

Staff requests the Board of Commissioners approve the 2024-2025 CAPER through a public hearing and subsequent Board Action.

NEXT STEPS

Once the CAPER has been approved it will be submitted to HUD. The deadline for submission is September 28, 2025, but due to that date occurring on a Sunday, it will need to be submitted no later than Friday, September 26, 2025.

ATTACHMENTS

- Attachment 1 – Draft CAPER
- Attachment 2 – Resolution No. 25-XX
- Attachment 3 – Public Notice

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

This was the second year of operation for Marion County's homeowner rehabilitation program and homebuyer assistance programs. These have proven to be valuable and successful within the county. In addition, some of the construction/renovation projects are underway.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee’s program year goals.

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Encourage Economic Opportunities	Non-Housing Community Development	CDBG: \$	Businesses assisted	Businesses Assisted	0	0				
Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	1500	1230	82.00%	100	271	271.00%
Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	0	0		50	0	0.00%

Increase Access to Community Services	Homeless Non-Homeless Special Needs	CDBG: \$	Homeless Person Overnight Shelter	Persons Assisted		261				
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	10		0	10	
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Rental units constructed	Household Housing Unit	0	0				
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Homeowner Housing Rehabilitated	Household Housing Unit	35	14	40.00%	9	26	288.89%
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Direct Financial Assistance to Homebuyers	Households Assisted	15	12	80.00%	3	8	266.67%
Increase Availability and Affordability of Housing	Affordable Housing	CDBG: \$ / HOME: \$	Homelessness Prevention	Persons Assisted	0	10		0	10	
Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	800	50	6.25%	3620	0	0.00%

Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Homeless Person Overnight Shelter	Persons Assisted	0	0				
Invest in Vital Comm. Facilities & Infrastructure	Non-Housing Community Development	CDBG: \$	Overnight/Emergency Shelter/Transitional Housing Beds added	Beds	15	13	86.67%			
Provide for CHDO Set-Aside	Affordable Housing	HOME: \$	Homeowner Housing Added	Household Housing Unit	0	0		1	0	0.00%
Provide for CHDO Set-Aside	Affordable Housing	HOME: \$	Other	Other	5	0	0.00%			
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	0	0				
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Rental units constructed	Household Housing Unit	0	0				
Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Homeowner Housing Added	Household Housing Unit	0	0				

Support Disaster Recovery Efforts	Affordable Housing Non-Housing Community Development	CDBG: \$ / HOME: \$	Homeowner Housing Rehabilitated	Household Housing Unit	0	0				
Support Program Success	Non-Housing Community Development	CDBG: \$ / HOME: \$	Other	Other	0	0				

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction’s use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

Marion County has now used CDBG funds for homeowner rehab and HOME funds for homebuyer assistance to address increasing the availability and affordability of housing. The rehab program is intended to provide a stable living environment and prevent homelessness. Homebuyer assistance is allowing families an opportunity to purchase their own home, which helps stabilize their future housing needs and expenses. In addition, CDBG funds have been allocated to several organizations to improve some infrastructure and facilities that serve LMI populations-such as a food pantry and resource center, homeless shelter facility, and a low-income area that will now have walkable sidewalks, lighting, re-paved parking and storm drainage

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG	HOME
White	189	8
Black or African American	14	1
Asian	5	0
American Indian or American Native	1	0
Native Hawaiian or Other Pacific Islander	8	1
Total	217	10
Hispanic	125	4
Not Hispanic	92	6

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

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CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	1,837,964	2,199,682
HOME	public - federal	509,833	1,106,162

Table 3 - Resources Made Available

Narrative

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
LMI Areas			LMI Areas
Marion County Service Area	100		Service Area

Table 4 – Identify the geographic distribution and location of investments

Narrative

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Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

Marion County provided \$350,000.00 of funding to an organization that establishes and maintains transitional housing.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	497,148
2. Match contributed during current Federal fiscal year	350,000
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	847,148
4. Match liability for current Federal fiscal year	263,358
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	583,790

Table 5 – Fiscal Year Summary - HOME Match Report

Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match
County Contribution (Opioid Funding)	0	350,000	0	0	0	0	0	0

Table 6 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at begin-ning of reporting period \$	Amount received during reporting period \$	Total amount expended during reporting period \$	Amount expended for TBRA \$	Balance on hand at end of reporting period \$
0	0	0	0	0

Table 7 – Program Income

Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	Minority Business Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Contracts						
Dollar Amount	0	0	0	0	0	0
Number	0	0	0	0	0	0
Sub-Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0
	Total	Women Business Enterprises	Male			
Contracts						
Dollar Amount	0	0	0			
Number	0	0	0			
Sub-Contracts						
Number	0	0	0			
Dollar Amount	0	0	0			

Table 8 - Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	Minority Property Owners				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

Table 9 – Minority Owners of Rental Property

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition						
Parcels Acquired		0		0		
Businesses Displaced		0		0		
Nonprofit Organizations Displaced		0		0		
Households Temporarily Relocated, not Displaced		0		0		
Households Displaced	Total	Minority Property Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number	0	0	0	0	0	0
Cost	0	0	0	0	0	0

Table 10 – Relocation and Real Property Acquisition

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CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	12	34
Number of Special-Needs households to be provided affordable housing units	0	0
Total	12	34

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	9	26
Number of households supported through Acquisition of Existing Units	3	8
Total	12	34

Table 12 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

Marion County was fortunate to have great community partners that helped implement these programs and reach the recipients that qualified and were in need of these supportive programs.

Discuss how these outcomes will impact future annual action plans.

This demonstrates the great need in our community for these programs. We hope these programs will continue.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	18	0
Low-income	7	1
Moderate-income	1	7
Total	26	8

Table 13 – Number of Households Served

Narrative Information

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CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Marion County actively participates in the Continuum of Care and is looking for ways to help reduce homelessness as it was a priority identified in the Consolidated Plan.

Addressing the emergency shelter and transitional housing needs of homeless persons

Marion County provided funds to an organization to purchase an additional transitional home for women with or without children. CDBG dollars have funded 2 transitional homes and the county has provided funding for 2 in the past 4 years.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The transitional housing projects previously mentioned are specifically targeted to serving these populations.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Marion County actively participates with agencies that are working to help homeless persons transition to permanent housing and independent living. The transitional housing projects previously mentioned are targeted to serving these populations.

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

Marion County staff works closely with the public housing authority on potential projects. It will continue to grow its collaboration in years to come as the CDBG/HOME Program can be a financial partner to future public housing projects if so desired.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

Marion County is working with community partners to find ways for public housing residents to become homeowners. This group of community partners includes housing authorities, county and city governments, private investors, financial institutions, and developers. Marion County Housing Authority actively promotes and encourages self sufficiency programs that help residents on the path to be successful renters and pursue home ownership if they choose.

Actions taken to provide assistance to troubled PHAs

Marion County Housing Authority is not a troubled agency.

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CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Marion County is actively pursuing ways to help cities meet the growth challenges in Oregon. Marion county is analyzing ways to help alleviate affordable housing barriers throughout the county and is willing to work with any jurisdictions where issues may arise. Marion County will remain a partner in helping to educate and alleviate barriers to affordable housing including but not limited to analyzing ways to purchase land to help ease the cost to build housing.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

Marion County participates with community partners to help address obstacles for underserved communities, including providing technical assistance whenever possible. This year, CDBG funds were allocated to 3 projects that are expanding services and their reach within their respective communities. These activities are aimed at reaching out to underserved areas and providing assistance and includes a food pantry/resource center, an advocacy group for children and a homeless shelter/resource center

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

Marion County is committed to reducing any lead-based paint hazards when situations arise. At this time there were no projects that warranted lead-based paint concerns. The homeowner residential rehabilitation program is operational and housing is tested as required by HUD

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Marion County recognizes the importance of upward mobility for poverty-level families. It is important to the County to help families gain financial stability by homeownership. This is part of the intent for the down payment assistance program. Marion County has adjusted the program design to improve the opportunity for families to reach homeownership.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

As this program is still in the early years of establishment, the institutional structure continues to evolve to best fit the needs of the community.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

Marion County is engaging with community partners to enhance coordination between public, private, and social service agencies. Participants include housing authorities, local governments, private donors, financial institutions, developers, shelters, food banks, and other social service agencies.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

In the five-year Consolidated Plan, there were four key fair housing goals identified in the analysis of impediments. Those four goals were to promote affordable homeownership and rental opportunities, promote community development activities in areas with higher rates of poverty, promote community and service provider knowledge of ADA laws, and increase outreach and education for housing providers in the county and the public. As the county develops the CDBG/HOME program it continues to build partnerships with community organizations that share the common goal of supporting and improving fair housing practices in Marion County.

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CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

Marion County continues to ensure that subrecipients and projects meet all applicable program requirements as determined by the funding source and the type of project funded. Additionally, oversight will continue to monitor adherence to project scope, schedule, and budget. A combination of data collected in quarterly reports, annual reports, data utilized in shared database project management systems, annual audits (if applicable), and site visits will provide a comprehensive overview of monitoring the subrecipient's performance. Red flags in scheduled reports or complaints filed against the subrecipient will automatically trigger a site visit to thoroughly investigate the issue.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

Marion County continues to seek ways to provide the public with opportunities to provide input. This can include partnering with other agencies conducting public events to have a presence, scheduling regular public input meetings, and participating in events with a broad range of public attendance. The public comment period for the CAPER was held from August 20, 2025 to September 4, 2025, with the Public Hearing held on September 10, 2025.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

None

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

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CR-50 - HOME 24 CFR 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in 24 CFR §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

N/A

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 24 CFR 91.520(e) and 24 CFR 92.351(a)

N/A

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

Marion County received \$50,000 in program income from the sale of property that had received homeowner rehab funds and it was put back into the homeowner rehab program.

Describe other actions taken to foster and maintain affordable housing. 24 CFR 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 24 CFR 91.320(j)

Marion County has established a down payment assistance program, and a homeowner residential rehabilitation program. These two programs are intended to increase opportunities for affordable home ownership, and the ability to stay in homes already occupied by LMI populations.

CR-58 – Section 3

Identify the number of individuals assisted and the types of assistance provided

Total Labor Hours	CDBG	HOME	ESG	HOPWA	HTF
Total Number of Activities	0	0	0	0	0
Total Labor Hours					
Total Section 3 Worker Hours					
Total Targeted Section 3 Worker Hours					

Table 14 – Total Labor Hours

Qualitative Efforts - Number of Activities by Program	CDBG	HOME	ESG	HOPWA	HTF
Outreach efforts to generate job applicants who are Public Housing Targeted Workers					
Outreach efforts to generate job applicants who are Other Funding Targeted Workers.					
Direct, on-the job training (including apprenticeships).					
Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.					
Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).					
Outreach efforts to identify and secure bids from Section 3 business concerns.					
Technical assistance to help Section 3 business concerns understand and bid on contracts.					
Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.					
Provided or connected residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.					
Held one or more job fairs.					
Provided or connected residents with supportive services that can provide direct services or referrals.					
Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.					
Assisted residents with finding child care.					
Assisted residents to apply for, or attend community college or a four year educational institution.					
Assisted residents to apply for, or attend vocational/technical training.					
Assisted residents to obtain financial literacy training and/or coaching.					
Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.					
Provided or connected residents with training on computer use or online technologies.					
Promoting the use of a business registry designed to create opportunities for disadvantaged and small businesses.					
Outreach, engagement, or referrals with the state one-stop system, as designed in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.					

Other.					
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Table 15 – Qualitative Efforts - Number of Activities by Program

Narrative

Marion County did not fund any projects that required Section 3 reporting.

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PUBLIC NOTICE

NOTICE OF PUBLIC HEARING-DATE CHANGE

Notice of Public Hearing and Comment Period on Marion County's Consolidated Annual Performance and Evaluation Report (CAPER)

Marion County's Community Development Division announces a 15-day comment period on its 2024 Consolidated Annual Performance and Evaluation Report (CAPER), prior to the submission of the report to the U.S. Department of Housing and Urban Development (HUD). The public comment period is September 4, 2025 – September 18, 2025. The Draft CAPER report can be found at: www.co.marion.or.us/CS/Pages/Community-Development. The CAPER summarizes annual accomplishments and assesses progress toward meeting the vision in the Consolidated Plan for the use of Community Development Block (CDBG) and HOME Investment Partnership funds.

A public hearing will be held on Wednesday, September 24, 2025 at 9:30 a.m. in the Senator Hearing Room located at 555 Court Street NE, Salem OR. 97301.

Comments may be submitted in writing from September 4, 2025 through September 18, 2025 to Steve Dickey, CDBG/HOME Program Manager, P.O. Box 14500 Salem, OR. 97309 or sent via e-mail to: sdickey@co.marion.or.us.

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, please call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168

AVISO PÚBLICO

AVISO DE AUDIENCIA PÚBLICA-CAMBIO DE FECHA

Aviso de Audiencia Pública y Periodo de Comentarios sobre el Informe Anual Consolidado de Rendimiento y Evaluación del Condado de Marion (CAPER)

La División de Desarrollo Comunitario del Condado de Marion anuncia un período de comentarios de 15 días sobre su Informe Anual Consolidado de Rendimiento y Evaluación (CAPER) de 2024, antes de la presentación del informe al Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos (HUD). El período de comentarios públicos es del 4 de septiembre de 2025 al 18 de septiembre de 2025. El borrador del informe CAPER se puede encontrar en: www.co.marion.or.us/CS/Pages/Community-Development. El resumen del CAPER resume los logros anuales y evalúa el progreso hacia el cumplimiento de la visión en el Plan Consolidado para el uso los fondos de Subvención en Bloque para el Desarrollo Comunitario (CDBG) y Programa de Sociedades para la Inversión de Vivienda (HOME).

Se celebrará una audiencia pública el miércoles 24 de septiembre de 2025 a las 9:30 a.m. en la Sala de Audiencias del Senador ubicada en 555 Court Street NE, Salem OR. 97301

Los comentarios pueden presentarse por escrito el 4 de septiembre de 2025 hasta el 18 de septiembre de 2025 a Steve Dickey, Gerente del Programa CDBG/HOME, P.O. Box 14500 Salem, OR. 97309 o por correo electrónico a sdickey@co.marion.or.us.

Si necesita servicios de interpretación, un equipo auditivo, material copiado en letra grande o cualquier otra acomodación, por favor llame al 503-588-5212 al menos 48 horas antes de la reunión. TTY 503-588-5168