

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

NOTICE OF DECISION
CONDITIONAL USE CASE NO. 24-045

APPLICATION: Application of Istvan Gal for a conditional use permit to establish a medical hardship dwelling on a 13.34-acre parcel in a SA (Special Agriculture) zone located at 5329 Riverdale Rd S, Salem (T8S; R4W; Section 13B; Tax lot 2500).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions.

EXPIRATION DATE: This conditional use permit is valid only when exercised by **November 29th, 2026**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

RENEWAL: This permit may be renewed for successive one-year periods if the applicant submits to the Planning Division, **on an annual basis**, a new Primary Care Provider Certificate which indicates that the hardship situation continues. The Planning Division will mail renewal forms to the property owner approximately two months prior to permit expiration.

CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

1. The applicants are advised that this permit is granted for a period of one year and must be renewed for successive one-year periods upon submittal of a Primary Care Provider Certificate verifying that the hardship conditions continue. In addition, for shared septic systems every five years the Marion County Building Inspection Division requires a septic evaluation prior to renewal of hardship conditional uses.
2. The applicants shall submit a Manufactured Dwelling/RV Removal or Disconnect Agreement to the Planning Division. This agreement specifies that the placement of the manufactured home or RV is temporary and it will be removed, or the RV disconnected and no longer used for residential purposes, after the hardship ceases. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
3. 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.
4. The applicants shall sign and submit a Sensitive Ground Water Overlay (SGO) 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.
5. The applicants shall sign and submit a Geohazard 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.
6. The hardship will be assigned the address **5331 Riverdale Rd South, Salem Oregon 97302** effective when building permits are applied for.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, state or federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the Salem Suburban Fire Department 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.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$250) on the basis of new information subject to signing an extension of the 150-day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **November 29th 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 2nd, 2024**, unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject property is designated Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect small agricultural operations while also providing the opportunity for some acreage residential and other uses that are compatible with agricultural activities.
2. The property is located at the southwest corner of Riverdale Road South and Sawmill Road South. The property contains a since decommissioned single-family dwelling built in 1972, a 2017 replacement dwelling, and several accessory buildings. In addition to the structures, the property contains a well and septic system. The property is described in deed Reel 4202, Page 4 dated 2019 in its current configuration and correlates with surveys from 1971 (Survey 22163) and 1977 (Survey 26205). The property is considered legal for land use purposes.
3. Surrounding properties consist of a mix of Acreage Residential (AR) zoned and SA zoned small sized farm operations and small acreage residential uses.
4. The Marion County Soils Analysis tool identifies that 28.5% of the soils on the subject property are high value.
5. The applicants are proposing to place a manufactured dwelling on the property to be used as a medical hardship for Leticia Gal, the mother of the applicant Istvan Gal. The applicants state that Leticia Gal's physical health and age require her to have regular support for her day-to-day care and wellbeing. They are proposing that Istvan and Cathleen Gal will be their caretakers while they continue to live in the primary dwelling. They will help care for Leticia and be available to transport her to her needed physician appointments and other related needs..
6. Various agencies were contacted about the proposal and given the opportunity to comment.
5. Public Works Land Development Engineering and Permits Division (LDEP) commented:

Engineering Requirements:

“At the time of application for building permits an Access Permit will be required to remedy several access related issues listed below. Note that these items will need to be completed prior to the issuance of

building permits for the medical hardship dwelling: will not approve building permits until the following conditions have been satisfied:

- Riverdale south main dwelling access: Remove pea gravel within approach and replace with compacted crushed rock;
- Riverdale north outbuilding access: Trim roadside vegetation in both directions, keep gate closed when not in active use due to limited sight distance; and,
- Sawmill field access: Permanently close due to substantially inadequate sight distance toward west crest curve. Option to relocate access easterly, distancing from crest curve.

Salem Fire Department Commented:

“Fire department access and water supply will be required per Oregon Fire Code.”

Marion County Building Inspection commented:

“No Building Inspection concerns. Permit(s) are required to be obtained if any development and/or utilities installation is being considered on private property.”

Marion County Septic commented:

“An authorization is required to connect the hardship to the existing septic system. Hardship authorizations are valid for up to 5 years, not exceeding the cessation of the hardship.”

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

7. In order to approve a manufactured home/RV under medical hardship the applicant must demonstrate compliance with the specific criteria listed in MCC 17.120.040. These include:
- A. This subsection contains definitions for the section and is not applicable as a criterion.
 - B. This subsection contains various requirements for application submission, including “*a signed statement from a licensed medical professional indicating whether the aged or infirm person has a hardship as defined in subsection (A) of this section. The statement shall also attest whether the licensed medical professional is convinced the person(s) with the hardship must be provided the care so frequently or in such a manner that the caregiver(s) must reside on the same premises*” and “*identify whether the aged or infirm person(s) and/or caregiver(s) will be residing in the hardship permit dwelling.*”

The applicants have submitted a medical care provider certificate for Leticia Gal stating that she has certain medical conditions that preclude her from maintaining a complete, separate and detached dwelling apart from her family. Istvan Gal (son) and Cathleen Gal (daughter-in-law) will live in the existing dwelling and will aid with daily tasks. Leticia Gal will occupy the manufactured home. The criterion is met.

- C. *In the EFU, SA, FT and TC zones, occupancy of a hardship permit dwelling is limited to the term of the hardship suffered by the existing resident or a relative as defined in ORS 215.283(2)(L).*

The application is in an SA zone. The hardship is for the mother of the owner and the manufactured home will be used by her. The criterion is met.

- D. *When the aged or infirm person must be provided care so frequently or in such a manner that caregiver(s) must reside on the same premises, the aged or infirm person and/or those caregivers providing care for the aged or infirm person may temporarily reside in the hardship permit dwelling for the term necessary to provide care.*
 - 1. *Those providing the care must show that they will be available and have the skills to provide the care required, as described by the licensed medical professional.*
 - 2. *Caregivers may reside within a hardship permit dwelling during periods of absence and medically necessary absence.*

3. *Caregivers shall not have any financial or expense obligation increased for residing in the hardship dwelling during periods of absence and medically necessary absence.*

The applicants have stated that Leticia requires assistance with daily tasks and wellbeing. The caregivers will provide assistance with daily tasks as needed for safety purposes. The criterion is met.

- E. *A temporary absence or medically necessary absence from the property by the aged or infirm person(s) will not result in the revocation or denial of a hardship permit.*
1. *When a medically necessary absence results in the aged or infirm person(s) living off of the property for more than 165 days in one calendar year or 165 consecutive days they must provide notice of the medically necessary absence to prevent the absence from being considered an extended absence.*
 2. *Notice of a medically necessary absence that will result in the aged or infirm person(s) living off of the property for more than 165 days in one calendar year or 165 consecutive days must be provided within 14 days of learning that the absence from the property will result in the aged or infirm person having to live away from the property for more than 165 days in one calendar year or 165 consecutive days.*
 3. *Notice of a medically necessary absence must:*
 - a. *Be submitted in writing;*
 - b. *Include a statement from a licensed medical provider outlining that the absence from the property is necessary for the care or medical treatment of the aged or infirm person;*
 - c. *Provide an estimate as to when the aged or infirm person(s) will return to the property;*
 - d. *Include an assessment from the licensed medical professional on whether or not the aged or infirm person(s) will be able to reside on the property again.*
 - i. *If a licensed medical professional cannot provide an assessment on whether the aged or infirm person will be able to return to the property at the time when notice of a medical necessary absence is due, a hardship permit may be approved for the amount of time necessary, not to exceed one year, for the licensed medical professional to make the assessment as to whether the aged or infirm person(s) will be able to return to the property.*
 - ii. *If a licensed medical professional cannot provide an assessment after the period of time described in subsection (E)(3)(d)(i) of this section, then a determination will be made as to whether the hardship permit is still necessary for the care of the aged or infirm person(s).*
 4. *Notice of a medically necessary absence may be submitted by the owner(s), aged or infirm person(s), caregiver(s) of the aged or infirm person(s), or other agent of the aged or infirm person(s).*
 5. *Caregivers may not be charged any rent or otherwise required to provide financial compensation to live in the hardship dwelling during a temporary absence or medically necessary absence. If as a part of any agreement to provide caretaking services, the caregiver was required to provide financial compensation or incur a financial obligation in order to reside within the hardship dwelling then that arrangement will not violate this subsection (E)(5); provided, that the arrangement existed prior to the temporary absence or medically necessary absence.*

These conditions and requirements shall be conditions of the approval of establishing this hardship. The criteria are met.

- F. *Extended absence from the property by the aged or infirm person(s), or caregiver(s) when the hardship permit dwelling is only being inhabited by caregiver(s), creates a rebuttable presumption that the hardship permit is no longer necessary to provide care to the aged or infirm person(s).*

1. *Extended absence from the property may result in revocation of the hardship permit; issuance of a citation pursuant to MCC 1.25.030; and/or initiation of civil action in circuit court pursuant to MCC 1.25.050.*
2. *Notice will be provided to the owner of any substantiated violation of this subsection (F) 30 days prior to the effective date of a revocation of the hardship permit made pursuant to subsection (F)(1) of this section.*

These conditions and requirements shall be conditions of the approval of establishing this hardship. The criteria are met.

G. *A mobile home or recreational vehicle being used as a hardship dwelling shall to the extent permitted by the nature of the property and existing development:*

1. *Be located as near as possible to other residences on the property;*

The applicants have stated that the manufactured dwelling will be placed 100 feet from the primary dwelling and provided a site plan showing the proposed arrangement of the buildings. The criterion is met.

2. *On EFU, SA, FT and TC zoned property, be located on the portion of the property that is least suitable for farm or forest use, if it is not feasible to locate it near an existing residence;*

The medical hardship dwelling will be placed on a portion of the land that has already been cleared and leveled and used for parking in the past. This location would not adversely impact farm or forest use. The criterion is met.

3. *Not require new driveway access to the street;*

No new driveway access is proposed, and the hardship will use the same access as the primary dwelling. The criterion is met.

4. *Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.*

This will be a part of the conditions of approval for establishing this new temporary medical hardship. The criterion is met.

H. *For an existing building to be used as a hardship dwelling it must:*

1. *Be suitable for human habitation;*
2. *Comply with all building and specialty codes (for example, but not limited to, electrical, plumbing, and sanitation) applicable to dwellings;*
3. *Not require new driveway access to the street; and*
4. *Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.*

The applicants are proposing to purchase and place a newly built manufactured dwelling to be used as the medical hardship. They are also aware that the hardship dwelling shall be connected to utilities connected to the primary dwelling. The criterion are met.

- I. *One of the residences shall be removed from the property within 90 days of the date the person(s) with the hardship or the care provider no longer reside on the property.*
 1. *In the case of a recreational vehicle, it shall be rendered uninhabitable by disconnection from services.*
 - a. *An agreement to comply with this requirement shall be signed by the applicant, and the owner of the recreational vehicle if different than the applicant.*
 - b. *Oregon Department of Environmental Quality removal requirements also apply.*

2. *In the case of an existing building, the renovations or modifications made to an existing building to be used for inhabitation must be removed.*
 - a. *The existing building shall be returned to similar conditions as its previous use; or*
 - b. *If the existing building is not going to be returned to its previous use then the building must be used for either a permitted use or a new use application for the existing building must be obtained.*
3. *In the case where an agricultural exemption is sought for an existing building, a new application must be approved regardless of any previously approved agricultural exemption.*

The applicants shall be required to sign a declaratory statement for the removal of the manufactured home as part of the conditions of approval for establishing this new medical hardship. The criterion is met.

- J. *Applicants are responsible for ensuring that all caregivers and/or other persons residing in the hardship dwelling are removed from the hardship dwelling within 90 days of the date that the person with the hardship or the care provider no longer resides in the hardship dwelling or on the property.*
 1. *Applications for a hardship dwelling must include a description of how the applicant will ensure this condition is met.*

This shall be a condition of approval for establishing this new medical hardship. The criterion is met.

- K. *At the time of renewal of a hardship dwelling permit, if the aged or infirm person has been on a temporary absence or medically necessary absence from the property for at least 30 consecutive days prior to submission of the renewal application, the application must include:*
 1. *In the event of a medically necessary absence, an assessment by a licensed medical professional stating that it is reasonably likely that the aged or infirm person will return to the property within the renewal period; or*
 2. *In the event of a temporary absence, a statement from the owner or aged or infirmed person setting forth the date on which the aged or infirm person will return to the property. If the aged or infirmed person does not return to the property within the time period described in subsection (A)(5) of this section, then the aged or infirm person's absence will be deemed an extended absence.*

This shall be a condition of approval for establishing this new medical hardship. The criterion is met.

- L. *The use of a hardship permit dwelling is intended to be temporary, shall be subject to review every year, and shall continue to meet the above criteria in order to qualify for renewal.*

This shall be a condition of approval for establishing this new medical hardship. The criterion is met.

- M. *For hardships in a resource zone based on a natural hazard event, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building when the temporary residence is established within an existing building if the hardship is located within 100 feet of the primary residence or the temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.*

This hardship is not related to a natural hazard event. The criterion does not apply.

8. Since the property is located in an SA zone, the proposal must also satisfy the conditional use criteria in MCC 17.137.060(A). Those requirements are:
 - (1) *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

The applicants are proposing to establish a new medical hardship on a portion of the property that has already been developed and are proposing to place the hardship dwelling on the extra parking area for the primary dwelling. The criterion is met.

(2) Adequate fire protection and other rural services are, or will be, available when the use is established.

The property is serviced by the Salem Suburban Fire District and Marion County Sheriff. Any other necessary rural services, such as a well and septic, are already present on the property. The criterion is met.

(3) The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.

The applicants state that there are not expected to be any impact on the watershed, groundwater, or wildlife habitat. Any potential slope stability issues would have been addressed during the building permit phase of the primary dwelling as the dwelling was established in a known geohazard zone. The criterion is met.

(4) Any noise associated with the use will not have a significant adverse impact on nearby land uses.

The medical hardship is not expected to generate any noise other than typical residential noises. The criterion is met.

(5) The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.

There are no nearby water impoundment or mineral and aggregate sites for the hardship dwelling to adversely affect. The criterion is met.

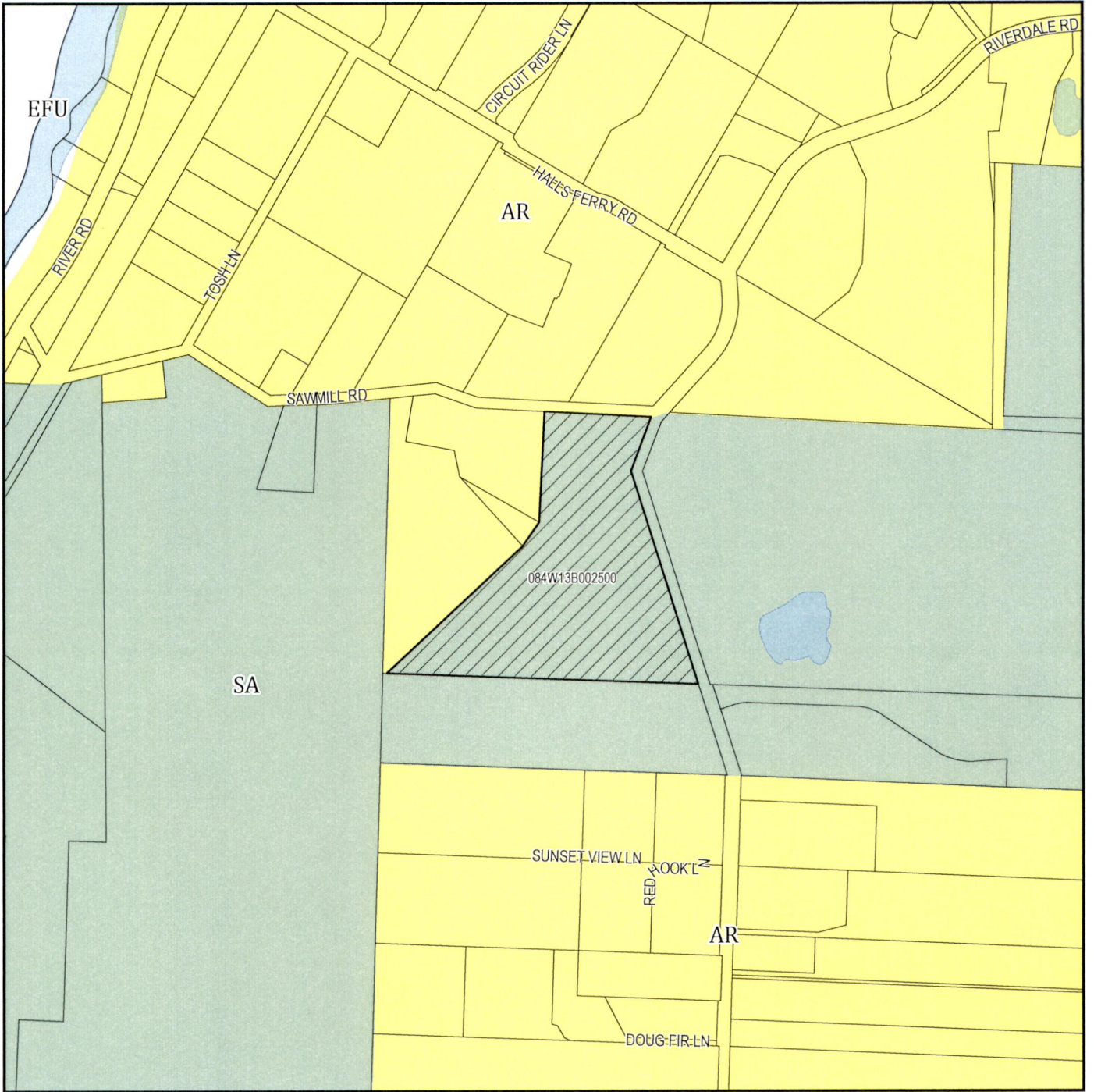
9. Based on the above findings, it has been determined that the request to establish a new medical hardship and place a manufactured dwelling on the property meets all applicable criteria and is, therefore, is **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: November 14, 2024

If you have any questions regarding this decision contact George Brandt at (503) 566-3981.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.



ZONING MAP

Input Taxlot(s): 084W13B002500

Owner Name: GAL, MARY CATHLEEN & GAL, ISTVAN

Situs Address: 5329 RIVERDALE RD S

City/State/Zip: SALEM, OR, 97302


Land Use Zone: SA

School District: SALEM-KEIZER

Fire District: SALEM SUBURBAN

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



N



scale: 1 in = 530 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.