

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 25-014**

**APPLICATION:** Application of Brett Allen Fobert for a conditional use permit to operate a towing business as a home occupation on a 22.45-acre lot in an EFU (exclusive farm use) zone located at 17644 Painter Loop NE (T4S; R3W; Section 34; Tax lots 800).

**DECISION:** On June 3<sup>rd</sup>, 2025, the Marion County Planning Commission **DENIED** the proposal.

**APPEAL PROCEDURE:** This decision may be appealed to the Marion County Board of Commissioners by submitting a written appeal explaining wherein the Marion County Planning Commission decision is in error, along with a fee of \$500.00. The appeal must be received in the Marion County Clerk's Office, 555 Court St. NE, Salem, by 5:00 p.m. on **July 2<sup>nd</sup>, 2025**. If an appeal is received it will be reviewed by the Board of Commissioners to determine if it merits further hearing and consideration by the Board. Questions regarding this decision or the appeal procedure should be directed to the Marion County Planning Division, 5155 Silverton Road NE, Salem, (503) 588-5038.

**FINDINGS AND CONCLUSIONS:** The Planning Commission decision is based on the following findings and conclusions.

1. The subject property is zoned exclusive farm use (EFU) and correspondingly designated primary agriculture in the Marion County Comprehensive Plan. The purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. These areas are generally well suited for large-scale farming. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.
2. The property is located on the east side of the Urban Growth Boundary (UGB) for the City of Hubbard. The northern 20-acres contains a grass field that is no longer in grass seed production, and a 15,000 square foot structure built with an agricultural exempt permit. A graveled area around the agricultural structure is being used for storage of vehicles. The southern 2-acres contain the homesite. The homesite contains a dwelling and a couple accessory structures east of the dwelling. To the west of the dwelling is a graveled parking area where the applicant's tow trucks are being stored.
3. Surrounding properties immediately adjacent to the north and east are zoned exclusive farm use and in current farm use. Properties to the east across Painter Loop NE are within the UGB for Hubbard and zoned Urban Transition (UT) These parcels consist primarily of residential properties, with the exception of a 10-acre property in farm use. To the south are a few properties zoned acreage residential (AR) and in use for rural residences. South of these rural residential properties, and across Painter Loop NE, are EFU zoned properties in use for farm operations, some timber production, and rural residences.

4. The applicant is proposing to park five tow trucks associated with his tow truck business on his property. The tow trucks involved are two wreckers, two flatbeds, and one spare truck.

#### **AGENCY COMMENTS:**

5. Marion County Planning requested comments from various agencies. Those comments provided are included as follows in this section.

Marion County Septic commented: “Marion County does not have history of a septic system on this property. An authorization is required to connect any plumbing or, if plumbing is present, is required for the change of use. If no system exists on the property or a new one is proposed, a site evaluation followed by a construction installation permit is required. Note: The drainfield initial and replacement areas must be free of all vehicular traffic per OAR 340-071-0130(12).”

Marion County Building Inspection commented: “No Building Inspection concerns, based upon the information provided in the application(s).”

Marion County Land Development, Engineering and Permits (LDEP) requested the following condition be included:

#### **ENGINEERING CONDITION**

**Condition A** – Within 30 calendar days from the date of land use full approval, obtain an Access Permit to pave the Painter Loop Road driveway approach with hot mix asphalt for a distance of 50 feet back from the roadway edge of pavement. Within 60 calendar days thereafter, cause the paving to be completed.

Marion County Code Enforcement provided images of the subject parcel and suggested parking the tow trucks offsite.

Friends of French Prairie commented in opposition of the application and provided the minutes from a Hubbard Planning Commission hearing related to a conditional use permit for a tow truck business owned by the applicant within the City of Hubbard. The full comments are included in the case file.

#### **PUBLIC HEARING COMMENTS:**

6. Marion County Planning Commission held a duly noticed public hearing on June 3, 2025. After issuing the hearing notice, written comments from the public were submitted. At the hearing itself, more written comments were submitted, and verbal testimony was also submitted. Comments from organizations and neighbors are summarized below.

Individual neighbors on Painter Loop Rd NE, Landura Ct NE and Shank Rd NE submitted letters in opposition leading up to the public hearing, and more letters at the public hearing itself. A petition in opposition submitted to Marion County Planning was signed by a total of 28 neighbors.

Individual neighbors testified in opposition at the public hearing and brought up alleged unrelated violations on the subject parcel such as burning and burial of trash, illegal

fireworks, and a transportation element of the towing business that was not addressed in the application.

Neighbors suggested that if the applicant has not complied with county ordinance and state law in the past, then the applicant may not comply with conditions of approval placed upon this proposed home occupation.

1,000 Friends of Oregon commented in opposition of the application, specifically pointing out that the application materials do not satisfy the farm impacts test criteria, and that the staff recommendation does not adequately address the farm impacts test criteria. The Friends also pointed out that there is no way for a commercial tow truck business to comply with MCC 17.136.060(C)(1)(b) that requires a home occupation to be substantially operated within either the dwelling or other buildings normally associated with uses permitted in the zone (excluding buildings built with agricultural exemption permits in which home occupations are not permitted). The Friends referred to some sections of MCC 17.120.075, but this section does not apply to home occupations on EFU.

Fobert Farms Inc. commented via a letter delivered to the public hearing by a registered agent of Manton Carl LLC. The letter explained concern about potential confusion resulting from the recently registered (5/27/2025) “Fobert Farm and Ranch LLC” which sounds very similar to their company name. Fobert Farms Inc. stated they have no connection with the applicant beyond being a distant family relation, that the applicant has never been involved in their farms, and that to their knowledge the subject parcel has been leased to a commercial farmer for the last 40+ years.

Manton A. Carl LLC commented in opposition of the application, specifically stating that commercial use proposed by the applicant is inappropriate in the exclusive farm use zone. Also, that the additional traffic would negatively affect their farming operation which includes hundreds of acres south of the applicant. Also, that the conversion of the farmland on the subject parcel negatively affects future generations of farmers by permanently removing the land from agricultural production.

Prior to the public hearing the applicant submitted supplementary materials including pictures showing vehicles with logos that say, “Fobert Farms LLC”, pictures of gravel under the vehicles, vehicle bills of sale, maps of the area around the subject parcel, and comments and pictures alleging active code violations and/or criminal activity taking place on approximately 22 neighboring properties.

Written comments submitted prior to, and during, the public hearing before the Planning Commissioners are available in full in the case file.

## **ANALYSIS AND CONCLUSIONS:**

6. Since the property is located in an EFU zone, the proposal must satisfy the conditional use criteria in MCC 17.136.060(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. For purposes of this section, a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:*

- (A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;*

The applicant provided a brief overview of the surrounding lands and agricultural practices.

The subject parcel is east adjacent to the UGB for Hubbard. Uses to the west are therefore transitional and urban uses, primarily residential. Uses to the north, west, and south are a mix of rural residential and farm uses.

Comments submitted after the hearing notice and staff recommendation were issued indicate that there are forest uses to the south where stands of timber are being raised and harvested on land owned by the Manton A. Carl LLC farm and timber operation.

The subject property was previously in grass seed production. That production was performed by a neighbor who leased the property for at least three decades as part of a larger grass seed farming operation. The approximately 20-acre field of grass is a protected variety that the lease holder had rights to. After the lease was broken, the applicant allegedly declined to allow the previous lease holder to spray the grass. The applicant now mows the field but does not, and cannot, harvest any part of the grass.

- (B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and*

The applicant contemplated the potential impacts of the proposed tow truck home occupation on the surrounding farm uses, including his own. The primary potential impact explored by the applicant is increased traffic. The applicant and his business partner leave and return to the property in one of the tow trucks as they each performs tows. The applicant estimates that there are an average of six trips per day.

Neighboring farm operators submitted written comments, and presented verbal testimony at the June 3, 2025 hearing that the traffic does in fact affect the farming of neighboring properties. Furthermore, neighboring farmers suggest that the commercial use on this property will increase the cost of land and therefore farming in the area which will influence a shift of uses away from exclusively farm uses.

Other potential impacts include the pollution of Brandy Creek by chemicals leaking from the tow trucks. The applicant's business partner suggested during the hearing that the trucks are parked 10-15 feet away from the creek. It is worth noting that the creek was filled in across the subject parcel at some point in the past. As a result, water gathers in this area and slowly drains towards the east where the creek body still exists. Mapping indicates that the creek drainage begins to the southwest of the subject parcel.

*(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.*

The applicant suggested that the only impacts are from trip generation. Based on testimony received after the hearing notice, and at the hearing itself, there appear to be other impacts. The development of the parcel with the 15,000 square foot agricultural structure and surrounding fenced parking lot has decreased the amount of farmable area significantly. Prior to the applicant establishing the agricultural structure, the subject parcel was leased and utilized by a neighboring farm for grass seed production. That lease was broken and the farm operation has been affected as a result. The subject parcel itself is no longer farmed. The representative for Manton A. Carl LLC's farms states that the traffic generated by the applicant poses issues for their farming and timber operations.

*(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.*

The applicant only considered the potential impacts from traffic.

*(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsection (a) and (b).*

The applicant stated that this criterion does not apply to his proposed use. However, the actual operation appears to involve the structure built with an agricultural exempt permit, and the fenced parking area around that structure.

During the hearing, testimony was presented explaining that B&T Trucking not only provides tow service, but transportation service. The alleged transportation service utilizes the semi-truck trailers stored in the parking area of the agricultural exemption building. These trailers were previously parked in the applicant's driveway as seen in Marion County's 2023 aerial imagery. The applicant did not address the non-farm transport element of B&T Towing in the application.

The applicant states these enclosed semi-trailers parked around the agricultural structure are for the transport of hay. The applicant could not provide any

evidence that they have transported hay in these enclosed trailers. Furthermore, the applicant could not provide any evidence that they have ever been involved in the growing or harvesting of hay.

The impacts related to construction and installation of the agricultural exempt building and parking area have already occurred. The parcel is specially assessed by the tax assessor, and was farmed for several decades for grass seed by a neighbor who leased the field. That lease has ended and the property is no longer farmed. The applicant did not provide any evidence that they are involved in farming. If the 15,000 square foot structure and associated parking area are in fact a part of the applicant's commercial operation, then the impacts have increased the cost of farming in the area and changed the farm use on the parcel itself because the field is no longer farmed for grass seed.

Both Friends of French Prairie and Manton A. Carl LLC submitted to the record minutes from a City of Hubbard Planning Commission hearing for a conditional use permit for this same business on a parcel within the City of Hubbard. After this was brought up, the applicant stated that the rent was raised on urban property, so he moved the towing operation to the subject property.

During the public hearing before the Marion County Planning commission, Manton A. Carl LLC's representative brought up that once farmland is paved over, graveled, or built upon, it will never be farmed again.

*(F) In the consideration of potentially mitigating conditions of approval under ORS215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).*

The County recognizes this requirement. No conditions of approval are being imposed on affected farm or forest landowners, nor are any landowners being compelled to accept payment as compensation for significant changes to, or significant increases in costs of, accepted farm and forest practices in the area.

**In Summary of MCC 17.136.060(A)(1):**

The applicant provided a brief analysis of the proposal subject to the farm impacts test in ORS 215.296(1) subsection (a) and (b) via the process outlined in subsection (c)(A-F). The applicant suggested the farm impacts test was met, but significant information provided by neighbors prior to and during the public hearing called into question whether the proposal actually meets the criteria of not significantly increasing cost of, or significantly changing, farm practices in the area. The applicant was given the opportunity to respond to all of the issues brought up, and was unable to provide any evidence that the tow truck business did not involve the transport of non-farm goods as advertised on the B&T Towing Facebook Page, nor evidence that the applicant is at all involved in farming, nor evidence that the agricultural structure was utilized for agricultural purposes and not in fact a structure used for solely commercial and personal purposes.

During the public hearing, opponents brought up how moving commercial businesses from appropriately zoned commercial or industrial parcels to exclusive

farm use zoned parcels, because of the relatively lower cost of agricultural land, is part of what Oregon's statewide land use planning was intended to protect against. The relative cost of land where commercial and industrial uses are permitted is higher than that of agricultural land where commercial and industrial uses are prohibited. By restricting expansion of these uses onto farmland, the farmland is protected for use by future generations.

The applicant moved his commercial business onto an exclusive farm use property to save money on rent. In the process of doing so, he ended the farm operations that had been present on the subject parcel for at least 30 years. The proposal has therefore already increased the cost of farming on the subject parcel to the degree that it is no longer farmed, and therefore additionally significantly changed farm operations on the subject parcel by ending them. Significant increases in cost and changes to practices on surrounding farm parcels are likely if the unpermitted use continues. Therefore, the Planning Commission finds that proposal fails the farm impacts test and does not meet the criteria required by MCC 17.136.060(A)(1).

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

The subject parcel is served by the Hubbard Fire District and the Marion County Sheriff's Department. A well with pump on the property exists as a water source to the existing dwelling. 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 applicant stated that no aspect of this proposal appears to have any potential impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and/or water quality.

Neighbors have submitted written comment, and testimony at the hearing, calling this assertion into question. The proposed parking area is directly adjacent to an intermittent stream, Brandy Creek, and the vehicles are parked on gravel. There is nothing to stop fluids from leaking into the soil and subsequently the water. As pointed out by the Planning Commission, the pipes and fittings on diesel trucks expand as the vehicles run, and when parked again those same components cool and the resulting mechanical fluctuations result in leakage of oil and coolant. Commercial vehicles such as these tow trucks require asphalt parking lots with water detention and treatment systems to ensure no significant adverse impacts are created by chemical leaching into the soils, watershed, and groundwater.

Neighbors stated that the applicant burns trash on a regular basis causing negative impacts to the air quality in the area. This issue may be at odds with Marion County Solid Waste Management ordinance (MCC 8.05.170), but is not specifically related to the proposed tow truck business.

The applicant has not provided any information to support his claim that the proposed tow truck business will not have a significant adverse impact on watersheds, groundwater, and soils. The Planning Commission finds that this criterion is not met.

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

The applicant states that no noise will be associated with the home occupation, as the services take place off the property. This lack of noise indicates no significant adverse impact on nearby land uses.

Neighbors provided written comments and testimony at the hearing that there are many noises created by the vehicles on the property, and other unrelated activities on the property. Specifically, the neighbors state that the applicant frequently accelerates his vehicle's engines in a loud manner. This applicant's alleged habit may be at odds with the Marion County Noise ordinance (MCC 8.45) between the hours of 10pm to 7am but is not specifically related to the proposed tow truck business.

The Planning Commission finds that this 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 water impoundments, mineral or aggregate sites identified in the comprehensive plan near this property. The criterion is met.

7. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in-conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria in MCC 17.136.060 (C):

- (a) *A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, nonresident employee, partner or any other person).*

The applicant attests in the application statement that the home occupation is carried out by the residents of the subject parcel, Brett Fobert and his business partner who lives on the property. At the public hearing before the planning commission, the applicant mentioned a third employee who is offsite and always "on the road".

In conversations with staff, the applicant stated that he employs farm workers. The applicant has not shown any evidence that they farm the subject parcel or any other parcel.

There are five tow trucks on the property and the applicant explains that he and his business partner each need a wrecker and a flat bed depending on the job, and that the fifth vehicle is a spare. At the public hearing before the planning commission, testimony in opposition stated that there was a sixth vehicle.



Due to discrepancies between various statements of the applicant, and contradictions between the applicant's statements and the statements of his neighbors, it is unclear how many employees there are. The evidence in the record is insufficient to support the applicant's assertion about this criterion.

The Planning Commission finds that this criterion is not met.

- (b) *It shall be operated substantially in:*
- i. The dwelling; or*
  - ii. Other buildings normally associated with uses permitted in the zone in which the property is located.*

The applicant proposes parking his tow trucks next to his home in an existing gravel parking area. He may conduct administrative work related to the tow truck business within his residence. The applicant states that home occupation is primarily operated offsite where the towing occurs. The home occupation will not be operated substantially in the dwelling or another building normally associated with uses permitted in the zone which the property is located. Home occupations are not permitted within agricultural buildings as per MCC 17.136.060(C)(1)(d), so the potential involvement of the agricultural structure does not meet this criterion. The proposed home occupation is primarily occurring off site. The onsite activities related to the home occupation are not occurring inside of the dwelling or another allowed structure. According to testimony presented by neighbors, the home occupation is also occurring around and inside of an agricultural structure where the use is not permitted. The Planning Commission finds that this criterion is not met.

- (c) *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*

The applicant states that the proposed use will primarily impact traffic from the applicant and business partner leaving the property to tow vehicles from one place to another, and never to the property, which will not significantly increase traffic levels compared to typical rural residential and farm activities.

Neighboring farmers have suggested that this traffic will in fact impact farming on their properties. Neighbors attested at the public hearing and provided written statements and pictures showing that wrecked vehicles have been brought to the property.

Neighbors stated at the public hearing that the proposed tow truck business interferes with their residential uses of property adjacent to the subject parcel. The residential uses in the Urban Transition and Acreage Residential zones adjacent to the subject parcel are not outright permitted within the exclusive farm use zone of the subject parcel. Some of the neighbors' complaints related to loud noises, trash burning, and dumping/burying trash on the subject parcel do not directly relate to the tow truck business proposed.

The Planning Commission found that the proposed parking area of the tow trucks does pose a risk to the watershed of Brandy Creek, and the groundwater of the area. Potential pollution does interfere with the farm uses permitted within the

EFU zone where the subject property is located. The Planning Commission finds that this criterion is not met.

- (d) *A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.*

There is a large structure on the northern side of the parcel built with an agriculturally exempt permit. The applicant states that it is in use for maintenance of farm vehicles and equipment, as well as storage of farm equipment, materials and incidental personal vehicles and items. The applicant stated in the application materials, and subsequent conversations with staff, that the agricultural structure is in no way related to the tow truck business.

Staff visited the site on May 19<sup>th</sup>, 2025, to see the parking area of the tow trucks and the agricultural structure. Staff saw that the contents of the parking area around, and the inside of, the agricultural structure matched the description of the applicant. The applicant attests that maintenance of farm vehicles and equipment owned by the Fobert family occurs within the structure, with some incidental personal vehicle maintenance.

The applicant states that the semi-truck trailers stored in the gravel parking area around the agricultural structure are for the transport of hay. During the public hearing before the Planning Commission, an opponent of the proposal brought up that the applicant's towing business (B&T Transport) also advertises transport of personal property within the trailers. The applicant was unable to provide any evidence in the record to support their assertion that the trailers were for the transport of hay. Hay is traditionally transported on flat bed trailers or bale trailers which are open to the air and are specifically designed for transporting large round bales. Transporting hay inside of an enclosed semi-trailer is not a standard method.

Part of the code enforcement investigation on the subject parcel involved allegations of an automotive repair business inside an agricultural structure. Staff observed during their site visit, and the applicant provided pictures of, an area with mechanic tools and two vehicle lifts within the agricultural structure. The applicant stated that this area is for working on farm vehicles and equipment utilized on the family farm. When asked about the family farm, the applicant told staff verbally that they farmed between 200 and 300 hundred acres. The applicant was not able to identify where those acres are located. The applicant was not able to provide any evidence regarding what crops are produced. They assert that hay is being produced and harvested somewhere and then moved via the trailers parked in the parking area of the agricultural building. The applicant was unable to provide any evidence that the vehicles that are being worked on in the automotive shop area of the agricultural building are farm vehicles owned by the applicant or his family.

There is insufficient evidence in the record to support the applicant's description of farm activities involving the agricultural structure. The proposed tow truck home occupation also appears to involve transport of non-farm goods utilizing trailers stored in the fenced parking area of an agricultural structure, and vehicular repair within the storage structure.

Neighbors stated that the applicant tows wrecked vehicles to the subject parcel. Neighbors also provided images of a wrecked vehicle being towed to the agricultural building area. The applicant attests that all the wrecked vehicles brought to the site are owned by either himself or his business partner.

There is insufficient evidence in the record to verify that the proposed business is not utilizing the structure built with an agricultural exemption permit. Evidence in the record suggests that the agricultural structure is being utilized in conjunction with the towing business. The Planning Commission finds that this criterion is not met.

- (e) *A sign shall meet the standards in Chapter 17.191 MCC.*

No sign is proposed. This could be a condition of approval.

- (f) *The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.*

The applicant attests that no employees assemble or dispatch from the property. The applicant is the owner and operator of the business. There are five tow trucks on the property that are all used by the applicant and his business partner. Both the applicant and business partner live on the subject property. The applicant attests that there are no other employees in the application statement. At the hearing the applicant referenced one other employee who remains on the road. In conversations with staff, the applicant referenced his farm employees working around the agricultural building. The applicant did not provide any evidence of farming on the subject parcel with which the farm employees would be engaged in. The evidence in the record is insufficient to support the applicant's assertion that this criterion is met. The Planning Commission finds that this criterion is not met.

- (g) *Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order off-site sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.*

Retail sales are not proposed. The criterion is met.

8. Marion County Code 17.110.680 *Administration of This Title* applies to all land use permits that are applied for as a result of code enforcement complaints.

Particularly paragraph two of MCC 17.110.680: *No permit for the use of land or structures or for the alteration or construction of any structure shall be issued and no land use approval shall be granted if the land for which the permit or approval is sought is being used in violation of any condition of approval of any land use action, is in violation of local, state or federal law, except federal laws related to marijuana, or is being used or has been divided in violation of the provisions of this title, unless issuance of the permit or land use approval would correct the violation.*

The applicant received code enforcement letters regarding solid waste, operating an automotive repair business out of an agricultural structure, and operating a tow truck business on EFU. This applicant sought to resolve the latter two issues by permitting the parking of tow trucks and clarifying that the tow truck business was not related to the use of the agricultural building. The applicant stated that the agricultural building and surrounding parking lot was for the storage of farm vehicles, and that the automotive repair equipment was solely used for farm vehicles and equipment utilized by his family farm.

The applicant has not been able to provide any evidence to support his statements about the use of the agricultural building. The applicant has not been able to provide evidence sufficient to meet the criteria required for approval of the conditional use home occupation permit. Testimony provided by neighbors at the public hearing directly contradict the statements made by the applicant regarding the proposed tow truck business, and the use of the agricultural structure.

The approval of this land use permit would not correct the violations on the subject parcel, and therefore even if the criteria for the home occupation were met, the proposal cannot be approved.

### **DELIBERATION:**

On June 3<sup>rd</sup>, 2025, the Planning Commission held a public hearing about the proposed conditional use home occupation tow truck business. The staff summary was heard. The applicant and his business partner provided testimony. Testimony from neighbors in opposition was heard. Written testimony from neighbors in opposition was received. 1,000 Friends of Oregon phoned in and delivered testimony in opposition. The applicant and his business partner provided rebuttal to comments from opposition. Deliberations were held regarding MCC 17.110.680, and whether approval of this application could resolve existing code enforcement. Testimony indicated that the application would not resolve existing code enforcement. Testimony also demonstrated that the application did not meet the required criteria.

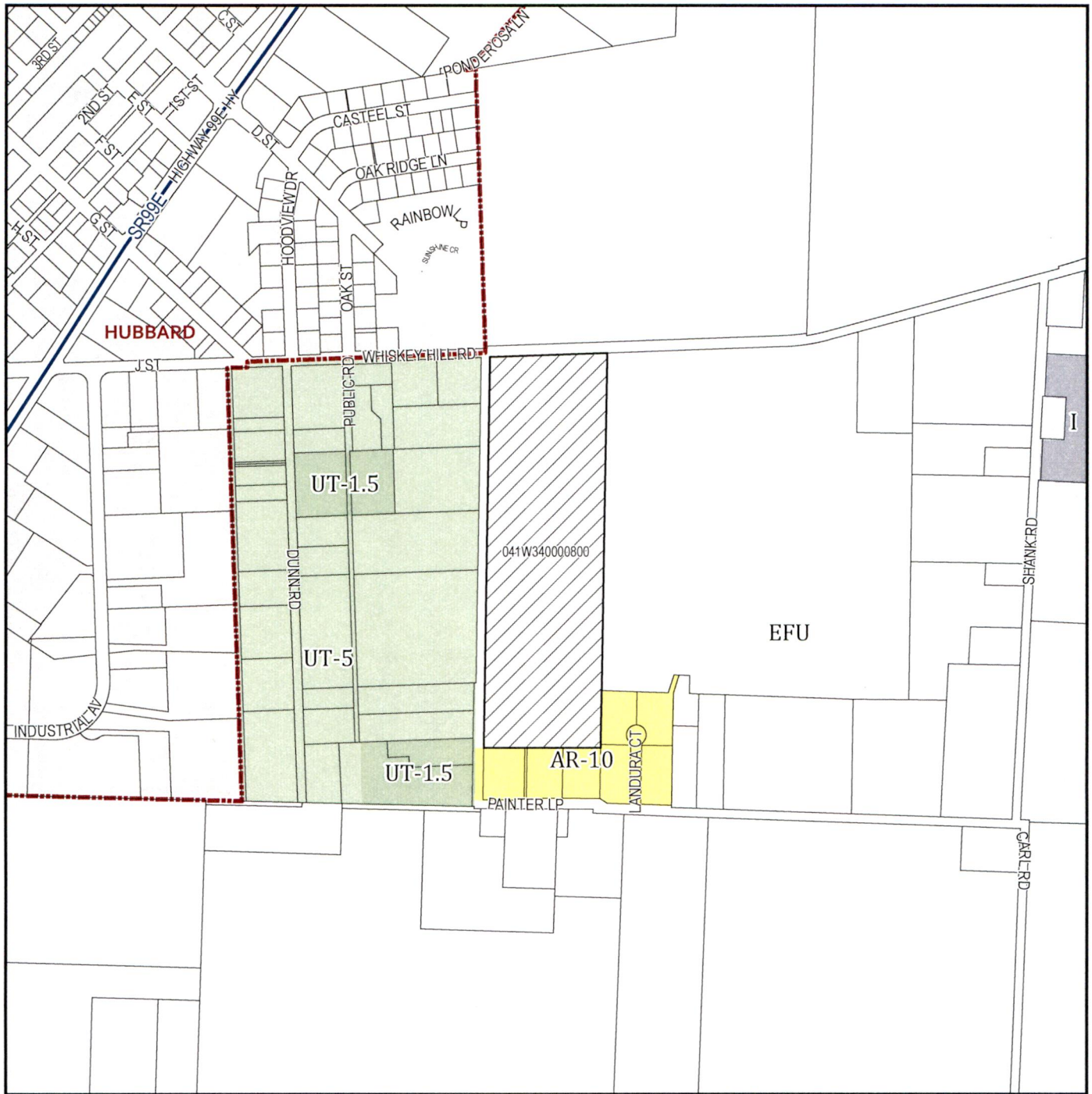
### **DECISION:**

At the June 3<sup>rd</sup>, 2025, meeting, after reviewing testimony in the record and presented at the hearing, a motion was made and seconded to **DENY** the proposal. The motion passed unanimously.

SIGNED AND FINALIZED THIS 16<sup>th</sup> day of **June, 2025**

By     Brandon Reich  
          Planning Commission Secretary

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): 041W340000800

Owner Name: FOBERT, BRETT A

Situs Address: 17644 PAINTER LOOP NE

City/State/Zip: HUBBARD, OR, 97032


Land Use Zone: EFU

School District: NORTH MARION

Fire District: HUBBARD

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 659 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.