



Marion County
OREGON

**ZONE CHANGE/COMPREHENSIVE
PLAN CHANGE APPLICATION**

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JUN 04 2025

**Marion County
Planning**

Do not double-side or spiral bind any documents being submitted

Fee: Please check the appropriate box:

- | | |
|---|---|
| <input type="checkbox"/> Zone Change - \$2500+\$40/acre | <input type="checkbox"/> Mineral Aggregate Site - \$6360 base fee + |
| <input type="checkbox"/> Comprehensive Plan Change - \$3755+\$70/acre | \$30/acre - 0-100 acres |
| <input type="checkbox"/> Zone Change/Comprehensive Plan Change - \$4510+\$70/acre | \$90/acre - 101-200 acres |
| <input checked="" type="checkbox"/> Zone Change/Comprehensive Plan Change - | \$120/acre - 201-399 acres |
| with goal exception \$6010+\$70/acre | \$180/acre - 400+ acres |

PROPERTY OWNER(S): Jubitz Corporation	ADDRESS, CITY, STATE, AND ZIP: [REDACTED]
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Britany Randall, BRAND Land Use	ADDRESS, CITY, STATE, ZIP [REDACTED]
DAYTIME PHONE (if staff has questions about this application): [REDACTED]	E-MAIL: [REDACTED]
ADDRESS OF SUBJECT PROPERTY: 12000 block of Ehlen Rd. NE	SIZE OF SUBJECT PROPERTY: 3.36 acres
The property owners request to change the zone from (current) <u>EFU</u> to (proposed) <u>ID</u> and/or change the Comprehensive Plan designation from <u>Primary AG</u> to <u>Commercial</u> . Provide detailed information on the attached "Applicant Statement" page.	
Will a railroad highway crossing provide the only access to the subject property? () Yes (<input checked="" type="checkbox"/>) No If yes, which railroad:	

FOR OFFICE USE ONLY:			
Township <u>4S</u>	Range <u>1W</u>	Section <u>10</u>	Application elements submitted:
Tax lot number(s) <u>1700</u>	Zone: <u>Primary EFU</u> Comp Plan: <u>Primary Ag</u>		<input checked="" type="checkbox"/> Title transfer instrument
Zone map number: <u>4</u>	Urban <input checked="" type="checkbox"/> Rural		<input checked="" type="checkbox"/> 2 Site plans showing existing/proposed zoning
<input type="checkbox"/> TPA/header	Case Number: <u>ZC/CP25-004</u>		<input checked="" type="checkbox"/> Applicant statement
Signs given (min. agg. only):	Date determined complete:		<input type="checkbox"/> GeoHazard Peer Review (if applicable)
	Application accepted by: <u>FSS</u> Set up by: <u>GP</u>		<input checked="" type="checkbox"/> Filing fee
	Date: <u>6/11/2025</u>		

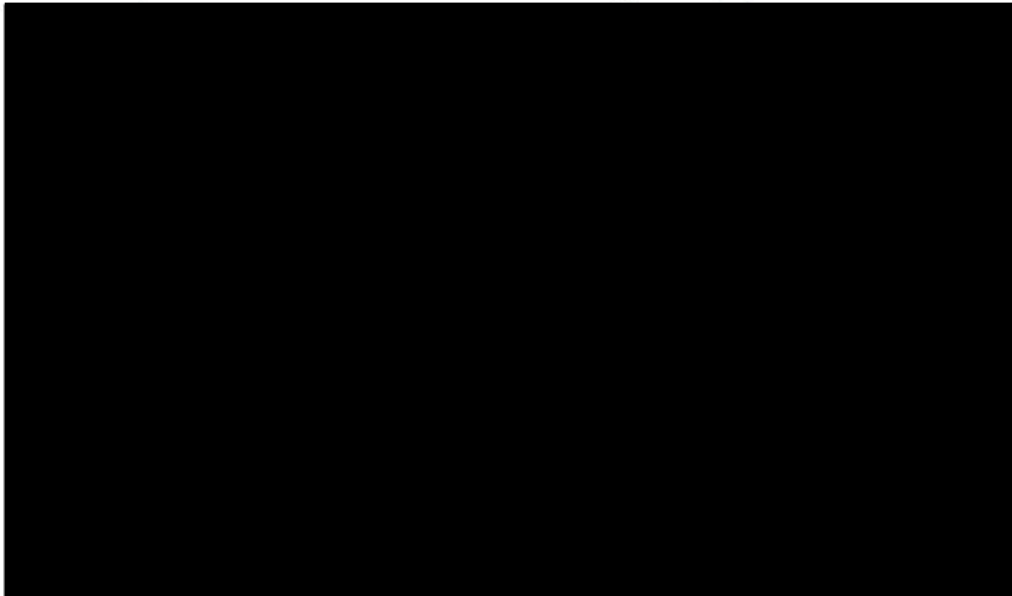
Comp Plan and Zone Change Application

Final Audit Report

2025-06-04

Created:	2025-06-03
By:	[REDACTED]
Status:	Signed
Transaction ID:	CBJCHBCAABAAXMjbNi1DWn01Y-Hi0rxsthN4vSeYyFb

"Comp Plan and Zone Change Application" History



Comprehensive Plan Amendment and Zone Change

Submittal Date: June 2025

Submitted To:

MARION COUNTY
~~CITY OF SALEM~~
Planning Department

Project Location:

12704 Ehlen Road NE
Aurora, OR 97002

Applicant(s):

Jubitz Properties, LLC

Applicant's
Representative:

Britany Randall of BRAND Land Use
[REDACTED]



BRAND

FEASIBILITY | PLANNING | LAND USE

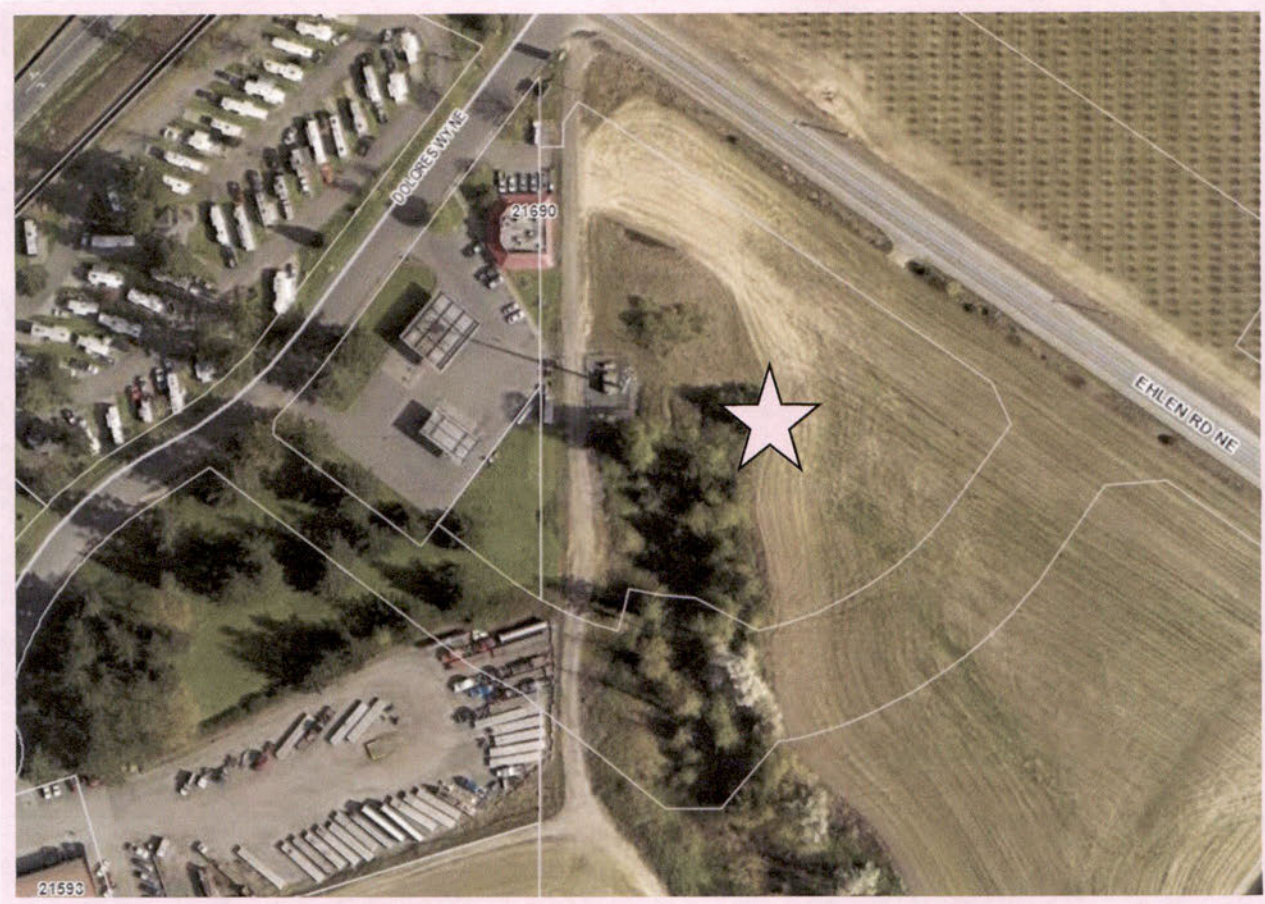
BRANDLANDUSE.COM

503.370.8704

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Aerial View of Subject Property and Existing Development



Section 1: Property Background and Request

The applicant and property owner, Jubitz Properties, LLC, is submitting this application for a Comprehensive Plan Amendment and Zone Change to re-designate approximately 3.12 acres of land from Primary Agriculture (PA) and Exclusive Farm Use (EFU) to Commercial (C) and Interchange District (ID) designations. The request reflects a necessary shift in land use consistent with evolving site conditions, ownership, and regional infrastructure planning.

As of April 30, 2025, the subject property is owned by Jubitz Properties, LLC. The property was previously held by Mr. Robert W. Gabriel, Trustee of the Robert W. Gabriel Trust, and was the subject of a recently approved Property Line Adjustment (PLA 24-003). That action, initiated by Jubitz Corporation on behalf of the Gabriel Trust, adjusted the property lines of a 10-acre and a 130.45-acre parcel to create a 3.12-acre parcel and a 137.06-acre parcel. The adjustment was specifically intended to accommodate the planned realignment of Delorus Way NE—a transportation project undertaken by the Oregon Department of Transportation (ODOT).

As a result of this realignment, the subject property has been effectively orphaned from contiguous agricultural operations. The parcel is now isolated from larger EFU-zoned tracts and lacks reasonable access or scale to support continued farm use. The land's current EFU zoning and PA designation no longer reflect the site's functionality, ownership objectives, or regional context. The proposed amendment seeks to realign the comprehensive plan and zoning designations with current realities and foreseeable development potential. The requested Commercial and Interchange District designations will enable the property to transition from agricultural to economically productive urban uses that are compatible with the surrounding development pattern, including the adjacent Interchange District and RV park, as well as other commercial and logistics-oriented uses near the I-5 corridor.

This application reflects a logical and necessary planning step to reclassify a remnant parcel that no longer serves its intended agricultural function and instead presents a unique opportunity for commercial redevelopment aligned with existing infrastructure and market demands.

Section 2: Existing Conditions

The development site is approximately 3.12 acres in size and is described as portions of Marion County Assessor Map and Tax Lots 041W10 01700 and 041W15 00400. A Marion County Tax Map identifying the subject properties is included in the exhibits accompanying this application.

The site is located in unincorporated Marion County, outside of any incorporated city limits. The Marion County Comprehensive Plan currently designates the property as Primary Agriculture (PA), and the zoning is Exclusive Farm Use (EFU). The subject property is not located

within any acknowledged Urban Service Area (USA) or urban growth boundary. The Comprehensive Plan designations of surrounding properties include:

North: C (Commercial) and PA (Primary Agriculture) across Ehlen Road

South: C (Commercial) and PA (Primary Agriculture)

East: PA (Primary Agriculture)

West: C (Commercial)

The subject property is zoned EFU (Exclusive Farm Use). Surrounding properties are zoned as follows:

North: EFU (Exclusive Farm Use) across Ehlen Road

South: ID (Interchange District) and EFU (Exclusive Farm Use)

East: EFU (Exclusive Farm Use)

West: ID (Interchange District)

Section 3; Findings Applicable to Administrative Procedures

[Chapter 17.111 – Public Hearing](#)

[Section 17.111.010 – Holding Public Hearings](#)

Public hearings, when required by this title, shall be conducted by the hearings officer, planning commission, or board of commissioners in a manner prescribed by state law and this chapter. For the purposes of this chapter, “hearings authority” means the hearings officer, planning commission, or board of commissioners.

Applicant’s Findings: *The applicant understands that the proposed amendment requires a public hearing.*

[Section 17.111.020 – Scheduling](#)

The director shall schedule all hearings before the hearings officer and planning commission. If the applicant for a quasi-judicial land use action requests a different hearing date, the director may reschedule the hearing. If the requested hearing date is later than otherwise would have been scheduled, the director may require the applicant to request an extension of the time limit for making a decision under state law. The director may require the applicant to pay a fee for renotification. If the hearings officer or chair of the planning commission requests a change in the hearing date the director shall reschedule the hearing.

Applicant's Findings: *The applicant understands the provisions regarding the scheduling of the required public hearing and that if renotification is required due to applicant request a renotification fee may be required.*

Section 17.111.030 – Notice of quasi-judicial public hearing

Upon the fixing of the time of a quasi-judicial public hearing, notice shall be provided as follows:

- A) Notice of hearing shall be mailed to the applicant, the property owners, co-tenants if the subject property is owned by tenants, in common, state and local agencies that may have concerns regarding the request, and as provided in subsection (C) of this section.

Applicant's Findings: *The applicant understands all possible parties who will be notified of the public hearing.*

- B) The notice of hearing shall contain:
 - 1) The date, time and location of the hearing;
 - 2) The nature of the application, and the proposed uses that could be authorized;
 - 3) The address or other easily understood geographical reference to the subject property;
 - 4) A list of the topical headings and numbers of the criteria from the Comprehensive Plan and this title that apply;
 - 5) A statement that failure to raise an issue in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the hearings authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;
 - 6) The name of the planning director's staff to contact, and the telephone number where additional information may be obtained;
 - 7) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and that a copy will be provided at reasonable cost upon request;
 - 8) A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and that copies will be provided at reasonable cost upon request;
 - 9) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

Applicant's Findings: *The applicant understands the required contents of the hearing notice.*

- C) Notices of quasi-judicial public hearings shall be mailed at least 20 days prior to the date of the first evidentiary hearing and 10 days prior to the date of any subsequent hearings. Failure to receive such notice by mail shall not affect the validity of the

proceedings. In addition, notices shall also be mailed to an appointed area advisory committee when it exists. The Director of the Department of Land Conservation and Development shall be notified of a hearing involving an amendment to a comprehensive plan or land use regulation 35 days prior to the first evidentiary hearing on adoption. The notice shall be provided to the applicant, the owner(s) of the subject property, and owners of record of property on the most recent property tax assessment roll where the property is located within:

- 1) Two hundred fifty feet of the property subject to the notice for subject property that is not within the EFU, SA, FT or TC zone; or
- 2) Seven hundred fifty feet of the property subject to the notice for subject property that is within the EFU, SA, FT or TC zone;
- 3) Notice shall be sent to owners of a public-use airport of any land use action within 5,000 feet of the side or end of a “visual airport” runway, or within 10,000 feet of an “instrument airport” runway, unless the action involves structures less than 35 feet tall outside the runway approach surface;
- 4) Notice shall also be provided to any neighborhood or community organization recognized by the board and whose boundaries include the site;
- 5) Notice of the public hearing on an application for an aggregate site shall be mailed to all owners of property, any portion of which is within 1,500 feet of the subject property.

Applicant’s Findings: *The applicant understands that the hearing notice will be mailed no later than 20 days prior to the first hearing to those interested parties listed above. The applicant also understands the notice radius as listed in sections 1-5.*

Section 4: Findings Applicable to Comprehensive Plan Amendment and Zone Change

Chapter 17.123 – Zone Change Procedures

Section 17.123.010 – Amendments

A zone change is a reclassification of any lot, parcel, or area from one zone or district to another. Such change shall be by an ordinance enacted by the board after proceedings have been accomplished in accordance with this title.

Applicant’s Findings: *The applicant understands that a change in ordinance shall be enacted by the board.*

Section 17.123.020 – Initiation of a zone change

- C) A quasi-judicial zone change may be initiated by a property owner(s) consistent with the application requirements of MCC 17.119.020 and 17.119.025.

Applicant's Findings: *This zone change request has been initiated by the legal property owner, consistent with the procedures for quasi-judicial applications established under Marion County Code (MCC) Sections 17.119.020 and 17.119.025. The application includes all materials required by these sections, including ownership documentation, a complete application form, and comprehensive written findings addressing the applicable approval criteria. As such, the request satisfies the procedural requirements for initiation and is properly before the reviewing authority for consideration. The applicant affirms that the request has been lawfully initiated and is supported by substantial evidence contained in the record.*

Section 17.123.030 – Hearing before the planning commission or hearings officer

Except in those cases where the board summons the application for initial determination pursuant to MCC 17.110.765, the planning commission or hearings officer shall hold a public hearing as prescribed in Chapter 17.111 MCC on the application for zone change. After concluding its hearings, the planning commission or hearings officer shall prepare a report setting forth a summary of facts and conditions involved in the reclassification and submit the same together with its recommendation to the board and to the petitioner.

Applicant's Findings: *Pursuant to MCC 17.123.030, the proposed zone change will be subject to a public hearing before a Hearings Officer, who is authorized to conduct quasi-judicial proceedings and make a recommendation to the Marion County Board of Commissioners. The applicant acknowledges that this process is consistent with the procedural framework outlined in Chapter 17.111 MCC, and that the Hearings Officer is responsible for compiling a summary of facts, analyzing the conditions relevant to the proposed reclassification, and forwarding a formal recommendation to both the Board and the applicant. The applicant affirms understanding of this process and has submitted all required documentation in accordance with these procedural expectations.*

Section 17.123.040 – Hearing before the board

The board shall hold a public hearing on any application for which the board has summoned for initial determination pursuant to MCC 17.110.765. In all other cases, the board may in its discretion hold a public hearing on the application. All public hearings shall be held pursuant to Chapter 17.111 MCC.

Applicant's Findings: *n accordance with MCC 17.123.040, the Marion County Board of Commissioners retains discretion to hold a public hearing on zone change applications unless it has summoned the matter for initial determination under MCC 17.110.765. In this case, the application will proceed through the standard quasi-judicial review process, with the Hearings Officer forwarding a formal recommendation to the Board. The applicant acknowledges that the Board will render the final decision on the proposed zone change and that any public hearing conducted by the Board will comply with the procedures established in Chapter 17.111 MCC. The*

applicant affirms a clear understanding of this provision and the steps involved in the review and decision-making process.

Section 17.123.050 – Final action by the board

Any zone change or reclassification of property shall be by ordinance which shall be passed by the board. Any denial of a proposed zone change shall be by order. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the official zoning map shall be changed as provided in MCC 17.110.660.

Applicant's Findings: *In accordance with MCC 17.123.050, the final action on a zone change application must be taken by the Marion County Board of Commissioners. If the request is approved, the reclassification will be enacted by ordinance and the official zoning map will be updated pursuant to MCC 17.110.660 to reflect the new zoning designation. If the request is denied, the decision will be memorialized by formal order. The applicant understands and accepts that the Board's decision, whether granting or denying the proposed zone change, constitutes final action and will be legally binding. The applicant further acknowledges that the zoning map will be revised accordingly should the Board approve the request.*

Section 17.123.060 – Criteria

Approval of a zone change application or initiated 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 goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and

Applicant's Findings: *The applicant is requesting an amendment to the Marion County Comprehensive Plan map to redesignate the subject property from Primary Agriculture to Commercial, in order to allow a corresponding zone change that aligns with the updated land use designation. This coordinated request ensures compliance with MCC 17.123.060(A), which requires that the proposed zoning be appropriate for the Comprehensive Plan designation and consistent with applicable goals and policies.*

The subject property, approximately 3.12 acres in size, includes an established communication tower easement authorized under AR96-15, wooded wetland areas, and land needed for the future realignment of Delores Way NE. These conditions significantly constrain the site's viability for agricultural use. As such, the property does not possess the characteristics typically associated with long-term farm use and is not contributing meaningfully to Marion County's agricultural land base.

The proposed amendment is consistent with Goal 2 – Land Use Planning, which supports coordinated planning that responds to site-specific characteristics and changing community needs. The proposal also aligns with Goal 3 – Agricultural Lands, which encourages protection of agricultural land only where such land is capable of sustaining long-term commercial farm use. In this case, the site’s size, access limitations, and encumbrances make it unsuitable for continued agricultural production, and its inclusion in the Primary Agriculture designation no longer reflects its highest and best use. Additionally, the request supports Goal 9 – Economic Development, which encourages the designation of appropriately located land for commercial uses to provide local employment opportunities and services. The site’s proximity to existing infrastructure and its role in accommodating future road realignment further support its suitability for low-intensity commercial development, consistent with policies that promote efficient land use near developing transportation corridors.

Accordingly, the proposed plan amendment and zone change are consistent with the Comprehensive Plan’s purpose of promoting orderly and efficient land use, reflecting on-the-ground realities while supporting economic development and infrastructure coordination.

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

Applicant’s Findings: *The proposed zone change is appropriate when considered in the context of surrounding land uses and the existing pattern and density of development in the area. The subject property is located at the intersection of Ehlen Road NE and the planned Dolores Way NE realignment, a project associated with the Oregon Department of Transportation’s ongoing improvements to the I 5 interchange. The site is approximately 3.12 acres in size and is physically constrained by an access easement for an existing communication tower authorized under AR96 15. It is not suited for continued agricultural production due to its size, configuration, and surrounding infrastructure.*

The parcel will be bordered on two of its three sides by high traffic roadways, including Ehlen Road and Dolores Way, which further isolate the site from adjacent agricultural uses and reinforce its functional role within a transitioning commercial corridor. To the south and west, the area is already characterized by a mix of commercial and highway oriented uses. These include the Aurora Acres RV Park, Western Mountain Transport, a convenience store, and two gas stations, Pacific Pride and 76. These uses support the conclusion that the immediate area is no longer exclusively agricultural in character but instead reflects a commercial node centered around regional transportation access.

Although lands to the north and east remain in active farm use, including grass fields and filbert orchards, the subject property is effectively separated from those agricultural operations by existing roadways, easements, and topographic features. Its orientation and context make it an appropriate location for limited commercial activity that complements the I 5 interchange and

serves nearby travelers and businesses. The proposed zone change is a logical and compatible extension of the existing commercial pattern to the west and is consistent with the direction of land use transition already underway in the area. Given these conditions, the applicant asserts that the proposed commercial zoning is the most appropriate and efficient use of the property.

- 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

Applicant's Findings: The subject property, which is approximately 3.12 acres in size, is located directly east of existing commercial development that serves regional traffic along the Interstate 5 corridor. While no specific development proposal is under consideration at this time, the applicant confirms that adequate public facilities, services, and transportation infrastructure are either currently available or can be provided in conjunction with future development. The property is located within a rural service area and would utilize on-site water and wastewater systems, including private well and septic service. Septic suitability has already been confirmed through an approved septic site evaluation from Marion County, which was a requirement of the previously approved partition plat. This confirms that on-site wastewater disposal is feasible for the site, consistent with rural development standards.

Transportation infrastructure in the area is well established, with direct access to Ehlen Road NE and close proximity to the I-5 interchange. The planned realignment of Dolores Way NE by the Oregon Department of Transportation will further enhance vehicular access and circulation in the area, improving connectivity and supporting the site's integration into the broader transportation network. These improvements will occur independently of this application but will provide long-term benefits for any future development on the site. All necessary services are either in place or can be extended or permitted as part of any future development review. Therefore, the applicant asserts that adequate public facilities, services, and transportation systems exist or will be made available to support the proposed zone change and any future use of the property consistent with applicable County requirements.

- 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

Applicant's Findings: The subject property has been significantly altered in form, function, and accessibility due to the planned improvements associated with the Oregon Department of Transportation's I 5 interchange realignment, including the introduction of Dolores Way NE. As a result, the parcel no longer maintains the characteristics of viable agricultural land and has become physically and functionally disconnected from surrounding farm operations. These conditions render it poorly suited for continued agricultural use but well positioned for low intensity commercial development that is compatible with the surrounding area.

Although other lands in Marion County are designated for commercial use, they are not as well suited to serve the anticipated highway oriented commercial functions proposed for this site. The subject parcel is immediately contiguous to an existing commercial node anchored by the Jubitz travel center, which already includes fueling stations, a food mart, and trucking related services. This adjacency strengthens the case for land use compatibility and continuity, particularly given the site's proximity to the I 5 interchange and location along a high visibility regional transportation corridor. Additionally, other designated commercial lands in the vicinity either lack direct highway frontage or are already developed, limiting their availability for new development. In contrast, this parcel offers an infill opportunity that complements existing commercial uses without expanding the urban footprint or introducing conflicting uses into surrounding agricultural areas.

Given these unique locational characteristics, existing site constraints, and functional relationship to established highway uses, the applicant asserts that this parcel is better suited for commercial use than other undeveloped lands designated for similar purposes elsewhere in the County. The zone change therefore represents the most logical and efficient use of the property consistent with sound land use planning principles.

- 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.

Applicant's Findings: *The proposed zone is compatible with surrounding uses and will not result in significant adverse effects on adjacent properties that are zoned for agricultural use. Although the adjacent parcels to the east and north are engaged in active commercial farming, the characteristics of those operations, such as the routine use of heavy equipment, creation of dust, noise, and other byproducts of cultivation, are themselves intensive in nature and share similarities with other working landscapes, including industrial activities.*

The subject property is buffered from these operations by a substantial area of non-farmable land, consisting of a wooded drainage ravine and a communication tower site approved under AR96-015. In that proceeding, the adjacent farmer submitted a letter to the Marion County Planning Division stating that this portion of the property was not suitable for crop cultivation and was considered "scab ground." This physical separation and long-standing acknowledgment of the area's non-agricultural character further demonstrate that the proposed change will not disrupt ongoing farm practices. Additionally, the surrounding context includes a concentration of existing commercial development to the south and west, such as gas stations, a trucking company, and an RV park. These uses have been in place for decades, and the subject site, due to its size, location, and physical constraints, functions as a transition area between agricultural land and highway-oriented commercial services.

For these reasons, the applicant affirms that the proposed zone change will not allow uses that would significantly adversely affect adjacent properties zoned for less intensive uses. The change is appropriate and compatible with the existing development pattern and land use context.

State of Oregon Goal Exception

In Oregon, rezoning land designated as Exclusive Farm Use (EFU) typically requires obtaining a "Goal Exception" to the Statewide Planning Goals, particularly Goal 3, which aims to preserve agricultural lands. This process is governed by Goal 2, which outlines the procedures for exceptions when a statewide goal cannot or should not be applied to a specific area.

Applicant's Findings: *The applicant is requesting a zone change from Exclusive Farm Use (EFU) to Commercial, which necessitates an exception to Statewide Planning Goal 3 under the procedures established by Goal 2. Goal 3 seeks to preserve agricultural lands for farm use, recognizing the economic and environmental value of maintaining Oregon's agricultural land base. However, Goal 2 allows local governments to adopt exceptions to statewide goals when it can be demonstrated that the goal should not apply to specific lands due to unique circumstances.*

The subject property is currently designated EFU and comprises approximately 3.12 acres. The site is heavily constrained by physical and functional limitations that preclude it from being used for productive farm operations. These include a long-standing easement for a communication tower approved under AR96-015, a wooded drainage ravine that bisects the site, and adjacency to Ehlen Road and the planned Dolores Way NE realignment as part of the Oregon Department of Transportation's improvements to the I-5 interchange. These features divide the property and physically isolate it from surrounding farm operations, making it both impractical and economically unviable for continued commercial agriculture.

Under the exceptions process in OAR 660-004-0020(2), a "reasons exception" is appropriate when it can be shown that the land is physically developed in a way that is incompatible with farm use, that the land is better suited for a non-resource use, and that the proposed use will not force a change in or significantly impact surrounding resource uses. In this case:

- *The site is physically developed and constrained by existing infrastructure and land encumbrances, including non-farm structures and natural features incompatible with cultivation.*
- *The small size and fragmented shape of the parcel further limit its utility for any meaningful farm use and prevent its integration into adjoining agricultural operations.*
- *The property is adjacent to a cluster of established highway-oriented commercial uses including gas stations, an RV park, and a trucking company, and is physically buffered from nearby farm operations by wooded terrain and non-farmable "scab ground."*

- *Rezoning the site will not force a change in farm practices on surrounding land and will not lead to further conversion of EFU land, as the property is already functionally severed from nearby resource land.*

The proposed use is consistent with the County's long-term vision for this area as a highway-serving commercial corridor, as demonstrated by existing commercial development and ongoing public investment in transportation infrastructure. The applicant asserts that a Goal 3 exception is justified based on the site-specific limitations and its incompatibility with long-term agricultural use, and that the exception complies with the procedures and substantive standards of Goal 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;

Applicant's Findings: *The subject property qualifies for a Goal 3 exception under OAR 660-004-0020(1)(a) because it has been physically developed and altered to the extent that it is no longer available for uses allowed under Statewide Planning Goal 3. The site is a remnant of a formerly larger parcel that was subdivided and substantially modified as a result of the Oregon Department of Transportation's (ODOT) realignment and expansion of Dolores Way NE, a component of the broader I 5 interchange improvement project.*

ODOT's transportation project has significantly disrupted the original configuration of the property, severing it from its parent tract and isolating it from surrounding agricultural lands. The resulting parcel is approximately 3.12 acres in size, irregularly shaped, and bordered on multiple sides by public roadway infrastructure, including Ehlen Road NE and Dolores Way NE. This fragmentation has orphaned the site, rendering it inaccessible and impractical for modern agricultural operations, which require continuous, unencumbered tracts of land to support equipment movement, irrigation, and crop management. Additionally, a portion of the property contains an existing communication tower with a recorded access easement approved under AR96-015, further limiting the site's suitability for agricultural production. The cumulative impact of permanent infrastructure, loss of physical connectivity to farmland, and reduction in functional acreage prevents the site from being used for farm use as defined in ORS 215.203.

Given the extent of these physical alterations and the loss of agricultural utility, the property can no longer reasonably support the types of uses Goal 3 is intended to protect. Accordingly, the applicant asserts that the site meets the exception criteria under OAR 660-004-0020(1)(a) and qualifies for a Goal 3 exception based on the physical development and severance caused by public infrastructure improvements.

- 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

Applicant's Findings: *The subject property qualifies for a Goal 3 exception under OAR 660-004-0020(1)(b) because it is irrevocably committed to non-resource use. Due to the surrounding development pattern, transportation infrastructure, and site-specific constraints, the property is no longer practicably capable of supporting uses allowed under Goal 3, and continued designation as Exclusive Farm Use (EFU) is no longer appropriate.*

The property is a remnant parcel, approximately 3.12 acres in size, that was severed from its original tract as a direct result of the Oregon Department of Transportation's (ODOT) realignment of Dolores Way NE and associated improvements to the I 5 interchange. This realignment physically separated the site from surrounding agricultural lands, eliminating its functional relationship with any larger farm unit. The property is now bounded on multiple sides by paved public roadways and is further constrained by an established communication tower easement approved under AR96-015.

Adjacent land uses to the south and west consist of commercial and highway-oriented developments, including gas stations, a food mart, a trucking company, and an RV park. These uses have been in place since at least the 1990s, and the area functions as a commercial node serving I 5 travelers and freight carriers. These adjacent uses produce traffic volumes, lighting, and operational activity that are incompatible with traditional farm use and further contribute to the site's isolation from viable agricultural practices.

Taken together, the adjacent non-resource uses, transportation improvements, and physical development on the property have irrevocably committed the land to a pattern and intensity of use that is no longer compatible with farming. The presence of these features makes it impracticable to engage in agricultural production or reintegrate the site into farm operations. As such, the property meets the commitment standard outlined by the Land Conservation and Development Commission and qualifies for a Goal 3 exception under OAR 660-004-0020(1)(b).

c) The following standards are met:

A. Reasons justify why the state policy embodied in the applicable goals should not apply;

Applicant's Findings: *The applicant asserts that there are compelling reasons why the agricultural preservation policy embodied in Statewide Planning Goal 3 should not apply to the subject property. Goal 3 is intended to preserve and maintain agricultural lands for farm use, particularly where such land is capable of long-term commercial agricultural production. In this case, the property no longer meets the intent or functional characteristics of agricultural land due to its physical fragmentation, limited size, and surrounding development pattern.*

The subject site is a small remnant parcel of approximately 3.12 acres that was orphaned from its parent tract as a result of the Oregon Department of Transportation's realignment of Dolores Way NE. The road improvements, coupled with existing infrastructure, including an established communication tower with a dedicated easement, have permanently altered the site and removed it from the agricultural landscape. The property is now physically and operationally isolated, bordered by public roadways and adjacent to longstanding commercial and highway-serving uses.

Given these conditions, the preservation of this site under Goal 3 serves no meaningful public purpose and does not advance the state's agricultural land protection policy. The site is not capable of supporting viable farm use, does not contribute to contiguous agricultural production, and cannot be feasibly reintegrated into nearby operations. Moreover, maintaining the EFU designation would result in a parcel that is functionally undevelopable for either agricultural or non-agricultural purposes, contradicting the intent of Oregon's land use system to promote the efficient use of land consistent with its capabilities.

For these reasons, the applicant asserts that an exception is warranted and that Goal 3 should not apply to this specific site. The physical characteristics, development constraints, and surrounding land use context provide a rational and justifiable basis for removing the Goal 3 designation in this case.

- B. Areas that do not require a new exception cannot reasonably accommodate the use;

Applicant's Findings: *The applicant has evaluated whether areas already planned and zoned for commercial use could reasonably accommodate the proposed use without requiring a Goal Exception. Based on the physical constraints of the site and its locational relationship to the Interstate 5 interchange and surrounding commercial services, the applicant concludes that no alternative location would serve the intended function as effectively or appropriately as the subject property.*

The property is located immediately adjacent to Ehlen Road and within direct proximity to the Dolores Way realignment, both of which are integral components of the regional transportation system. The site is also directly contiguous to an established node of highway-oriented commercial uses, including fuel stations, an RV park, and a trucking facility. The subject parcel is uniquely situated to function as an extension of this commercial cluster, serving travelers, freight operators, and nearby businesses. Relocating the proposed use to another commercially designated site elsewhere in the County would separate it from this established corridor, reduce its utility, and fail to leverage existing infrastructure investments.

Additionally, other commercially zoned lands in the area are either already developed, lack direct access to the highway system, or are not positioned to function as effectively in a

transportation-oriented commercial context. No other available land within the County's commercial inventory matches the combination of access, adjacency to existing uses, and functional compatibility offered by this site. For these reasons, the applicant asserts that areas not requiring a new Goal Exception cannot reasonably accommodate the proposed use. The subject property's location, access, and development constraints justify the necessity of the proposed exception in this unique case.

- 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

Applicant's Findings: *The applicant has considered the long-term environmental, economic, social, and energy consequences of establishing a commercial use on the subject property, and concludes that these consequences are not significantly more adverse than would result from locating the same use on other lands that also require a Goal Exception.*

From an environmental standpoint, the subject property has already been significantly impacted by public infrastructure improvements associated with the Oregon Department of Transportation's realignment of Dolores Way NE. The land has been physically altered, partially developed, and separated from its agricultural context, making it less environmentally sensitive than other undeveloped farm parcels in the County. No wetlands, riparian corridors, or high-value habitat areas remain on the site, and future development can be designed to comply with all applicable erosion control and stormwater management requirements.

From an economic perspective, the use of this parcel for limited commercial development would support local employment and contribute to the highway-serving economy already present in the immediate area. It would not require major new infrastructure investment, as roadway access, utility service potential, and surrounding commercial operations are already in place or planned. Utilizing this site promotes compact, efficient development within an existing transportation corridor, minimizing the need to open up new lands elsewhere.

The social consequences are also favorable. The property is adjacent to existing commercial activity and is buffered from active farm operations. Its development for commercial purposes would not conflict with existing neighborhood character or displace residential or agricultural uses. It would support the traveling public and commercial freight operators by adding compatible services to an already active interchange area.

In terms of energy, the subject site benefits from its location adjacent to major transportation routes, including Ehlen Road and Interstate 5. This reduces vehicle miles traveled for freight and

motorists seeking services, compared to locating the same use on a more remote site that would require extended trips and new access improvements.

Given the analysis above, the long-term consequences of allowing commercial development on this site are not significantly more adverse than they would be at any other site requiring a Goal Exception. The site's existing constraints, physical separation from viable farmland, and integration with existing infrastructure make it a practical and efficient location for the proposed use with minimal new impacts.

- D. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Applicant's Findings: *While no specific development is proposed at this time, the applicant is exploring the potential use of the site for expanded highway-oriented commercial services upon successful redesignation and rezoning of the property. The applicant recognizes that any future use of the site will be subject to applicable local land use and development review procedures, which include the ability to impose conditions, setbacks, screening, and other measures to ensure compatibility with adjacent properties.*

The property is directly adjacent to existing commercial and highway-serving uses to the south and west, including fueling stations, an RV park, a convenience store, and a trucking operation. These uses have long shaped the character of the area and reflect a commercial node centered on access to the Interstate 5 corridor and Ehlen Road. The site is physically and functionally integrated into this transportation-focused landscape.

To the north and east, land remains in agricultural production. However, the subject property has been severed from those farm operations by the ODOT realignment of Dolores Way NE and is further constrained by existing infrastructure, including a communication tower and associated access easement. The site is no longer viable for commercial agriculture and does not functionally interface with surrounding farm operations.

Given the existing land use context, the physical separation from resource land, and the ability to apply appropriate conditions during future development review, the applicant asserts that any future use of the site can and will be rendered compatible with adjacent uses. Therefore, the requirements of OAR 660-004-0020(1)(c)(D) are satisfied.

Section 5: Conclusion

The applicant, Jubitz Properties, LLC, respectfully requests approval of this application for a Comprehensive Plan Amendment and Zone Change to redesignate approximately 3.12 acres of land from Primary Agriculture (PA) and Exclusive Farm Use (EFU) to Commercial (C) and Interchange District (ID). This request also includes a Statewide Planning Goal Exception to Goal

3, in accordance with the procedures set forth under Goal 2 and Oregon Administrative Rules 660-004-0020.

As demonstrated in the detailed findings provided herein, the subject property has been irrevocably altered by the Oregon Department of Transportation's realignment of Dolores Way NE and is no longer capable of supporting commercial agriculture. The parcel is a physically and functionally isolated remnant, severed from its parent tract and bounded by transportation infrastructure, existing development, and site constraints that render continued farm use impracticable.

The proposed plan and zone designations reflect the property's current and foreseeable land use context, which includes highway-oriented commercial development to the south and west, an established access easement for a communication tower, and proximity to the Interstate 5 interchange. The requested designations are consistent with the County's Comprehensive Plan goals and policies, including Goal 2 (Land Use Planning), Goal 3 (Agricultural Lands, by exception), and Goal 9 (Economic Development), and they represent a logical continuation of the commercial development pattern already present in this area.

Each of the applicable approval criteria for a Comprehensive Plan Amendment and Zone Change under Marion County Code Chapter 17.123 has been addressed in full. The applicant has also demonstrated compliance with the procedural and substantive standards for a Goal 3 exception, including those related to physical development, irrevocable commitment, lack of reasonable alternatives, and compatibility with adjacent uses.

The applicant affirms that this application satisfies the burden of proof required by the Marion County Comprehensive Plan, the Marion County Zoning Ordinance, and the Statewide Planning Goals. The request represents sound land use planning, is supported by substantial evidence in the record, and promotes efficient use of land within a constrained and already-transitioning corridor.

For these reasons, the applicant respectfully requests that the Hearings Officer recommend, and the Marion County Board of Commissioners approve, the proposed Comprehensive Plan Amendment, Zone Change, and corresponding Goal Exception.

Section 6: Exhibits