



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 23, 2026

Department: Public Works

Title:

Consider adoption of an administrative ordinance granting Zone Change/Comprehensive Plan Change 26-001/TIBA Incorporated

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

Time Required: 5 min Contact: Alex Seifer Phone: 503-566-4162

Requested Action:

Staff recommended motion: Approve the administrative ordinance approving Zone Change/Comprehensive Plan Change 26-001/TIBA Incorporated.
Other motion options for consideration are:
1. Direct staff to make changes and approve a modified ordinance.
2. Not approve the ordinance.

Issue, Description
& Background:

The Marion County Hearings Officer held a duly noticed hearing on the application on April 16, 2026. On April 28, the Hearings Officer issued a recommendation to approve Zone Change/Comprehensive Plan Change 26-001/TIBA Incorporated. The Board held a duly noticed hearing on the application on May 20th, 2026 and approved the application.

The ordinance and findings have been prepared and notice of adoption was given on September 16, 2026.

Financial Impacts:

None

Impacts to Department
& External Agencies:

None

List of attachments:

Ordinance

Presenter:

Alex Seifer

Department Head
Signature:

for Brandon Risch

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

In the Matter of the	)	Case No. 26-001
Application of:	)	Zone Change/Comprehensive
TIBA INCORPORATED	)	Plan Change

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of TIBA INC. for a zone change and comprehensive plan change to change the zone from SA (Special Agriculture) to C (Commercial) and to change the comprehensive plan designation from Special Agriculture to Commercial, with an exception to Statewide Planning Goal 3 (Agricultural Lands) on a 24.88-acre parcel located at 5355 Gaffin Rd SE, Salem (T8S; R2W; Section 5A; Tax lot 100).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on April 16, 2026, and on April 28, 2026, issued a recommendation the Board approve the application. The Board held a duly noticed public hearing on the application on May 20, 2026, and considered the Planning Division file, the Hearings Officer's recommendation, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Fact and Additional Findings of Fact and Conclusions of Law, contained in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested zone change from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to Statewide Planning Goal 3 (Agricultural Lands) on a 24.88-acre parcel is hereby **GRANTED**, subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

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

SECTION V. Effective Date

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

SIGNED and FINALIZED this _____ day of _____, 2026, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

JUDICIAL NOTICE

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

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of) Case No. 26-001
)
)
TIBA, INCORPORATED) **ZONE CHANGE AND COMPREHENSIVE**
) **PLAN CHANGE**

RECOMMENDATION

I. Nature of the Application

This matter is before the Marion County Hearings Officer on the Application of TIBA, INCORPORATED to change the zone from SA (Special Agriculture) to C (Commercial) and to change the Comprehensive Plan designation from Special Agriculture to Commercial on 24.88-acres, located at 5355 Gaffin Road SE, Salem (T8S; R2W; Section 05A; tax lot 100).

II. Relevant Criteria

The standards and criteria relevant to this Application are found in the Marion County Comprehensive Plan (Rural Development Policies, Rural Services Policy), and the Marion County Code (MCC) Title 17, especially MCC 17.123 (Zone Change), MCC 17.137 (Special Agriculture), and MCC 17.145 (Commercial Zone). Policies relevant to this Application are also found in the State of Oregon Statewide Planning Goals (particularly Goal 3), and Oregon Administrative Rules 660, Division 4 (Goal Exception Process).

III. Public Hearing

A public hearing was held on this matter on April 16, 2026. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- | | | |
|----|-----------------------------|---------------------------------|
| 1. | Alexander Seifer | Marion County Planning Division |
| 2. | Lindsey King (PNW Planning) | Representative for Applicant |
| 3. | Ray Baker | In Support of Application |
| 4. | Jason Briggs | General Comments |

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

IV. Executive Summary

The matter before the hearings officer is the application of TIBA, INCORPORATED to change the zone from SA (Special Agriculture) to C (Commercial) and to change the Comprehensive Plan designation from Special Agriculture to Commercial on 24.88-acres, located at 5355 Gaffin Road SE, Salem.

The subject property previously had a hay compaction operation, but operations ceased before 2020. No immediately adjacent parcels except perhaps one to the west are in farm production. This parcel appeared to have bee hives, but witness testimony indicated that there are no active hives. Gaffin Road is located near SR22 and Culver Drive. The Amazon warehouse and delivery facility and Salem-Keizer School District Transportation Center are located on Gaffin Road and are established industrial and commercial uses.

There are close to 185-acres of commercial or industrial zoned parcels in the area between Culver Drive and SR22, as compared to about 150-acres of SA zoned parcels, which indicates that the majority of the local area is dedicated to industrial or commercial uses. Approval of the zone change would make the subject property consistent with most of the zoning and match existing development.

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for a zone change and comprehensive plan change to change the zone from SA (Special Agriculture) to C (Commercial) and to change the Comprehensive Plan designation from Special Agriculture to Commercial on 24.88-acres, located at 5355 Gaffin Road SE.

The Hearing Officer recommends that the Marion County Board of Commissioners GRANT the Application subject to certain conditions that are necessary for public health, safety, and welfare.

V. Findings of Fact

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

1. This matter is the Application of TIBA Inc to change the zone from SA (Special Agriculture) to C (Commercial) and to change the Comprehensive Plan designation from Special Agriculture to Commercial on 24.88-acres, located at 5355 Gaffin Road SE, Salem (T8S; R2W; Section 05A; tax lot 100).
2. The property is located on the north side of Gaffin Rd SE, approximately 2,900 feet northeast of Gaffin Road's interchange onto SR22. The property was the subject of two previous land use cases, CU92-018 and CU20-038, and is legal for land use purposes.
3. Properties directly to the west and north are zoned SA (Special Agriculture), which contain a mix of small acreage residences and small-scale farming operations, essentially all being less than 15-acres in size. All other adjacent parcels are located within Salem City limits and developed with industrial uses. These include an Amazon Locker facility, RV storage, and a Salem-Keizer School District transportation center.
4. The Marion County Planning Division requested comments on the proposal from various government agencies. The following comments were received:

Marion County Public Works Land Development and Engineering (LDEP) provided the following comments:

ENGINEERING ADVISORIES

Applicant should also be aware of the following:

- A. PW Engineering has no action items for the proposed Zone Change itself.
- B. The following are PW Engineering advisories for future further development:
 - A storm water detention system had been designed, permitted (#UR05-055) and constructed serving the two rear (northern) buildings. Based upon review of aerial imagery, the detention system has likely been either partially or completely obliterated as a result of undocumented land clearing and grading activities over time. Future development will need to address recouping any loss of that system as well as for any new development.
 - The subject property is situated within the County's Stormwater Management Area (SWMA). Future development, as well as any required recoupment of the original system described above, will need to include water quality treatment as part of an overall stormwater system.
 - Marion County has jurisdiction over construction erosion permitting for total ground disturbances within the SWMA ranging from 0.25-acre to just under 5-acres.
 - Authorization for permanent full-time Culver Road access is not anticipated. However, secondary, gated fire-only access to Culver Road could potentially be authorized if required by the local fire department.
 - Transportation System Development Charges (SDCs) will be assessed at the time of application for building permits, including for any required Change-in-Occupancy of an existing structure.
 - County GIS depicts a mapped seasonal ditch traversing the subject property that appears from review of aerial imagery to have been realigned in conjunction with the aforementioned undocumented grading activities.

Marion County Building commented the following: "No Building Inspection concerns. Permit(s) are required to be obtained prior to any proposed development of structures and/or utilities installation on private property. Permit history appears to indicate the existing structures on the subject property were properly permitted as commercial agricultural structures. A more thorough review of these records can be performed to provide a more formal determination of these structures, if necessary. Please contact Marion County Building Inspection to request this information."

Friends of Marion County: provided comments in opposition to the proposal. The comments argue that the Applicants provided insufficient evidence to demonstrate the parcel cannot be farmed and that there will be a cascading effect of committing additional resource lands in the area to non-resource use.

At the time of this staff report all other contacted agencies either failed to respond or stated no objection to the proposal.

5. Alex Seifer presented the staff report and stated that there have been two prior land use actions with respect to the subject property, CU 92-018 and CU 20-038. Mr. Seifer stated that the neighboring parcel does not have active farming operations. Mr. Seifer also noted that there is a large Amazon facility near the subject property which has already brought more intensive uses to the area. The majority of the parcel is developed and any additional development would not be expected to have any additional impact on the surrounding agricultural and rural residential lands. Mr. Seifer stated that Marion County Planning recommends approval of the application subject to recommended conditions of approval.
6. Lindsey King, Pacific Northwest Planning, Applicant Representative, testified at the hearing. Ms. King stated that there are no farming operations on the subject property, and that the property was permanently disqualified for tax deferral more than twenty years ago. 17 of the 24 acres are dedicated to commercial use, and the remainder of the property includes mapped wetlands and poor soils. Ms. King stated that the proposal qualifies for an irrevocably committed and physically developed exception to Statewide Goal 3.
7. Ray Baker testified at the hearing in favor of the application. Mr. Baker addressed the adjacent property where bees were raised at one time. Mr. Baker indicated that the bees were diseased, and that there do not appear to be any active hives. Mr. Baker indicated that there may be a few sheep in the pasture, there is no active farming occurring on adjacent property.
8. Jason Briggs testified at the hearing. Mr. Briggs presented general comments and is not necessarily in favor of or opposed to the application. Mr. Briggs noted that there are lots of trucks on Gaffin Road, and that urban growth is happening with the impact of the Amazon facility. Mr. Briggs addressed use of Culver Road for access. Mr. Briggs also noted concerns about wetlands and water detention with road improvements.
9. Alex Seifer responded to Mr. Briggs' concerns and indicated that MCLDEP provided comments about water detention and provided comments regarding future development. Mr. Seifer indicated that it is not anticipated that access would be off Culver except as an emergency or secondary exit.

V. Additional Findings of Fact and Conclusion of Law

1. This is a recommendation to the Marion County Board of Commissioners (BOC). The BOC is the final decision-making authority.

2. Applicant has the burden of proving compliance with all applicable criteria as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

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

3. MCC 17.123.020 provides that a quasi-judicial zone change may be initiated by a property owner consistent with the application requirements of MCC 17.119.020 and 17.119.025.

The proposed zone change has been initiated by the legal property owner. The application includes the required ownership information, completed application materials, and written findings addressing the applicable approval criteria. The request has been properly initiated and is before the County for review through the quasi-judicial process.

GOAL EXCEPTION

4. Land use applications of this nature must be consistent with Statewide Planning Goals. In this specific case, the subject parcel is covered by Statewide Goal 3 (Agriculture Land). There is a mechanism, however, for not applying the Goal to areas with certain characteristics. This mechanism is the Goal exception process that requires specific findings justifying why such lands are not available for resource use. There are three types of exceptions to Statewide Goals that may be granted. The first two are based on the concept that the subject property is “physically developed” or “irrevocably committed” to a certain use. The third is a “reasons” exception where there is a demonstrated need for the proposed use or activity. In this case, the applicant indicated that the proposal qualifies for an irrevocably committed and physically developed exception.

STATEWIDE PLANNING GOALS

5. Proposals to amend the comprehensive plan must be consistent with the Statewide Planning Goals:

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

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

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

Goal 4: Forest Lands. The subject property has not been determined to be forest land. This goal does not apply.

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

Goal 6: Air, Water and Land Resources Quality. The subject property is not within an identified air quality area. The property is not located in the Sensitive Groundwater Overlay Zone. No activities have been proposed on the property that would use significant amounts of groundwater. Any single commercial use of water using less than 5,000 gallons per day is exempt from water right permitting requirements of the Oregon Department of Water Resources, as long as the water is used for a “beneficial purpose without waste” and may be subject to regulation in times of water shortage.

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

Goal 8: Recreation Needs. No Goal 8 resources are identified on the property. This goal does not apply.

Goal 9: Economic Development. Because the proposal is a rural commercial designation supported by a Goal 3 exception and does not involve urbanization or expansion of urban services, it is consistent with Goal 9.

Goal 10: Housing. This goal applies to housing within an urban growth boundary. This goal does not apply.

Goal 11: Public Facilities and Services. The subject parcels do not require an extension of services with a C (Commercial) zone use, this goal is satisfied.

Goal 12: Transportation. If the zone is changed to Commercial, the existing development will not have a significant impact on the roadway system in this area because of the minimal number of trips associated with the existing uses and the adequacy of the roadway to accommodate the probable level of additional traffic. ODOT did not identify any concerns with the proposal.

Goal 13: Energy Conservation. The proposal will result in an increase in commercial activity in the area and will require additional energy consumption. However, the increase in energy consumption will not be beyond what can be handled by existing infrastructure. The presence of a substation and the ability of the existing infrastructure to handle more energy intensive uses on neighboring properties demonstrate the sufficiency of the system. This goal is met.

Goal 14: Urbanization. Applicant proposes to rezone Special Agriculture to Commercial outside of the urban growth boundary. Goal 14 does not apply.

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

COMPREHENSIVE PLAN AMENDMENT

6. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). The DLCD was notified as required by State Law and did not comment prior to this report being prepared.
7. The Marion County Comprehensive Plan (MCCP) establishes procedures to be used when considering plan amendments. Plan changes directly involving 5 or fewer property owners will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in MCC 17.123. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 17.123 of the MCRZO. The subject property is comprised of one tax lot with one property owner. The proposal can therefore be considered under the quasi-judicial amendment process.
8. The MCCP does not contain specific review criteria for plan amendments; however, any amendment must be consistent with its applicable goals and policies. The goals and policies that apply in this case are located in the Rural Development Chapter and include policies for areas designated Commercial.
9. Rural Service Policies:
 - A. *"Strip-type" commercial or residential development along roads in rural areas shall be discouraged.*
 - B. *Rural industrial, commercial, and public uses should be limited primarily to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.*

No strip-type development is proposed. The majority of the parcel is currently developed, and any additional development would not be expected to have any additional impact on surrounding agricultural and rural residential lands. The applicant did not show any additional proposed development on the site plan but indicated that the proposal will utilize the existing structures developed on the property for previously approved commercial use. Gaffin Road is a paved Marion County jurisdiction road that changes to a City of Salem jurisdiction road at the end of the subject parcel's frontage along Gaffin Rd. Access is currently granted and controlled by Marion County LDEP. Currently there are established industrial uses that generate significant traffic located on the city jurisdiction parcels to the southeast, primarily in the form of an Amazon Locker facility and Salem-Keizer School District Transportation Center. The proposed change to commercial zoning will have an impact on the traffic on Gaffin Rd, but the area is already commercially developed with roads that can handle the expected increases in traffic. Marion County LDEP has not identified any concerns and not requested any road upgrades or a TIA, therefore indicating the existing rural road development is suited for the proposal. The rural Commercial zone permits uses that do not require public facilities such as sewer or water in order to allow for commercial development outside of urbanized areas, allowing it to be in harmony with Goal 14. As such, the new zone will restrict new uses to only those that can be supported without requiring connections to utilities and services found only in urban areas.

Goal 3 Exception

10. OAR 660-004-0018 (2) requires that “physically developed” and “irrevocably committed” exceptions to goals, plan, and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:
- A. *That are the same as the existing land uses on the exception site;*
 - B. *That meet the following requirements:*
 - i. *The rural uses, density, and public facilities and services will maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and*
 - ii. *The rural uses, density, and public facilities and services will not commit adjacent or nearby resource uses to nonresource use as defined in OAR 660-004-0028; and*
 - iii. *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;*
 - C. *For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, ‘Planning and Zoning of Unincorporated Communities’, if applicable, or*
 - D. *That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.*

A majority of the subject parcel is currently developed. Applicant’s analysis determined that approximately 17 of the 24.88 acres are dedicated to existing commercial use. It is not within an unincorporated community and is not in industrial use. Marion County has adopted a rural commercial zone which has been acknowledged as complying with Goal 14, Urbanization. The zone ensures that rural uses will not exceed density limitations on rural land and will not commit rural uses to requiring an urban level of public facilities. The commercial uses which would be allowed under Marion County’s Commercial zone would be able to be supported on solely a rural level of public services, including rural septic service, and would be similar to the types of uses found in the surrounding land to the east, which is zoned for industrial uses by the City of Salem. While there are parcels to the north and west that are zoned Special Agriculture, because of the existing development in the immediate area, most in the vicinity are in residential or commercial use and are not being farmed or are being farmed at a small scale. The property cannot be farmed in conjunction with any other parcels in the area easily, as the portions of the subject property abutting neighboring farm uses consist of hydric soils not suitable for commercial agriculture or are the sections of the property developed with the existing commercial use. No urban public services will be needed to serve the site. The parcels in the area

already consist of commercial or residential use. Based on the evidence and findings provided by Applicant, the proposal meets the criteria under the above section.

11. OAR 660-004-028 specifies that a local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make the uses allowed by the applicable goal impracticable. It further stipulates that whether land is irrevocably committed depends on the relationship between the exception area and the adjacent lands. The findings for a committed exception, therefore, must address the following:

- A. The characteristics of the exception area;*
- B. The characteristics of the adjacent area and the lands adjacent to it; and*
- C. The relationship between the exception area and the lands adjacent to it; and*
- D. The other relevant factors set forth in OAR 660-04-028(6).*

OAR 660-004-028(6) referenced above indicates that findings of fact for a committed exception shall address the following factors:

- A. Existing adjacent uses;*
- B. Existing public facilities and services (water and sewer lines, etc.);*
- C. Parcel size and ownership patterns of the exception area and adjacent lands:*
 - (i) Consideration of parcel size and ownership patterns shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground utilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for non-farm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels.*
 - (ii) Existing parcel sizes and contiguous ownership shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small*

parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

- D. Neighborhood and regional characteristics;*
- E. Natural or manmade features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;*
- F. Physical Development according to OAR 660-004-025; and*
- G. Other relevant factors.*

OAR 660-004-0028 requires showing that farm use is impracticable, not merely inconvenient. Applicant has addressed the characteristics and relationship of the exception area and the lands adjacent to it, consistent with OAR 660-004-028, as shown in 12 (A), (B), (C) and (D) above. The subject property is directly adjacent to industrial zoned land within the City of Salem (without even a road as a buffer), and the majority of the surrounding area is already dedicated to industrial or commercial uses.

The subject parcel is bordered on all sides by features that act as barriers to other farmland in the area. To the northeast is the right-of-way for Culver Drive and to the southwest is the right-of-way for Gaffin Rd. All farm use on the subject property ceased approximately six years ago, and the buildings are in disrepair. To the southeast there are industrial parcels within the City of Salem that are developed with a substation and Amazon locker facility. The parcels to the west are still zoned SA and contain some farm uses, but most of these farm uses are small operations consisting of less than 10-acres. There does not appear to be active farming on the adjacent parcel. The rest of the parcels are either developed as small acreage residences or are made up of hydric soils with low viability for farm use. The soils on the subject parcel that border these SA zoned parcels are also hydric and are not desirable for farm use. According to the "Soils – Predominantly Hydric Soil Map Units" layer in the Marion County Land Use Planning GIS tool, the open field area bordering Culver Dr consists of amity silt loam soils, which the tool's description states is prime farmland if drained. Considering the presence of wetlands on the subject property, installation of drainage tiles on these soils may risk non-compliance with Wetland Conservation Compliance provisions and could result in a farmer becoming ineligible for federal assistance from United States Department of Agriculture programs, according to the "Farm Bill Eligibility and Tile Drainage" pamphlet from the Natural Resources Conservation Service. These drainage regulations further limit the potential use of the property for traditional agriculture on its own or with contiguous properties.

Further, the subject property does not possess an irrigation water right necessary to support commercial-scale agricultural operations or other intensive farm uses commonly associated with lands protected under Statewide Planning Goal 3. The parcel is served by a domestic well, which the Oregon Water Resources Department has confirmed through the attached well log; however,

the record does not demonstrate the existence of a legal irrigation water right sufficient to support sustained commercial agricultural production.

Goal 3 is intended to preserve and maintain agricultural lands for farm use; however, the subject property lacks a key resource necessary to support viable agricultural production. Without a legal irrigation water right, the property is constrained in its ability to support irrigated crops, productive pasture, or other higher-value agricultural activities that typically justify continued agricultural designation and zoning. The absence of irrigation water substantially limits the property's capability for sustained commercial agricultural use consistent with the intent of Goal 3.

The relationship between the subject property and the surrounding area has changed significantly in the past 20 years. On December 31st, 2005, there was no commercial or industrial development on the adjacent parcels. By July 9th, 2010, the Amazon Locker facility and the neighboring power transformer installation were constructed, cutting the subject parcel off from any open farmable land to the southeast, and the beginning stages of the Salem/Keizer School District bus depot were in place across Gaffin rd. In the following 16 years, the area underwent progressive development, including development of apartment complexes, a self-storage facility and gas station at the intersection of Cordon Rd and Gaffin Rd; expansion of the parking area for the Amazon facility; creation of Gaia St SE to the southeast; and most recently the full development of the school district vehicle depot in 2022, which cumulatively was the tipping point here.

The subject property's current relationship with other lands in the area is that it acts as a transitional parcel between the small farm and residentially used parcels and the fully developed industrial and commercial parcels in the City of Salem's jurisdiction. While it contains open space, those undeveloped areas contain the most hydric soils and are the least suitable soils for farming in the area. The property is also significantly developed with structures that allow it to serve commercial uses, and attempting to farm the subject parcel in conjunction with a neighboring property would require a specialized type of agricultural not requiring available soil.

There are close to 185-acres of commercial or industrial zoned parcels in the area between Culver DR and SR22, as compared to about 150-acres of SA zoned parcels, demonstrating that the majority of the local area is dedicated to industrial or commercial uses. If this zone change were to be approved, the subject property would be consistent with this zoning and match existing development that dominates the local area. Additionally, the subject property is the largest SA zoned parcel in the local area with the exception of a 91.10-acre parcel roughly 2,500 feet to the northeast. The applicant addresses this outlier in their analysis, showing that this one large parcel is significantly disconnected from the local area of the subject parcel by several small properties and 2 different road rights-of-way. The rest of the parcels in their area of analysis are around 10-acres or less in size and almost none are under contiguous ownership. Applicant states that none of the parcels in farm use within their area of analysis constitute significant farming operations because of this parcel size and ownership pattern, further isolating the subject property as far as being able to incorporate into a larger farming operation.

OAR 660-004-0028(6)(c)(B) provides that "Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels." The maps and other information in the record

demonstrate that there is such a pattern of small parcels in separate ownerships that are developed, clustered in a large group, and clustered around a significant road designed to serve these clustered parcels. This describes the surrounding area and further demonstrates irrevocable commitment.

As addressed above, the rural Commercial zone permits uses that do not require public facilities such as sewer or water, which the parcel currently lacks access to.

The proposed Rural Commercial designation more accurately reflects the property's existing resource limitations and operational characteristics. Any proposed use is anticipated to require substantially less water than commercial agricultural operations and can be served through lawfully available domestic or other approved non-irrigation water sources. As such, the proposal would not remove from commercial agricultural production land that is currently viable, irrigated, or capable of sustained farm use at a level Goal 3 is intended to protect.

Moreover, approval of the requested amendments would not establish a precedent for the conversion of productive agricultural lands generally. The justification for the proposal is based on the cumulative total specific circumstances of this property, including being adjacent on two sides to industrially zoned land in the City of Salem (with the subject property's longest boarder being immediately adjacent to industrial zoned land in the City of Salem without even a road in between as a buffer), the majority of the surrounding area being already dedicated to industrial or commercial uses, the absence of a legal irrigation water right, the resulting limitations on agricultural productivity, and the site's reduced suitability for long-term commercial farm use. These site-specific conditions distinguish the property from surrounding resource lands that possess the necessary characteristics to support viable agricultural operations. The proposed Rural Commercial designation for this property would not irrevocably commit adjacent lands to the north, as those lands do not currently (and still would not after this decision) share the same unique circumstance of being immediately adjacent to industrially zoned land in the City of Salem. Indeed, the subject property is the only SA property between Culver Rd and Gaffin Rd that is immediately adjacent to industrially zoned land in the City of Salem without a road in between as a buffer.

The record contains substantial evidence supporting the conclusion that the subject property is not well suited for long-term commercial agricultural use as contemplated under Goal 3, and that the proposed Comprehensive Plan amendment and corresponding zone change are justified and consistent with the intent and purposes of Statewide Planning Goal 3.

With limited space available on the parcel for traditional farming methods, natural and development barriers to other farm parcels in the area, and the land use pattern in the immediate area consisting mostly of uses not involving commercial agriculture, the subject parcel is, through this confluence of factors, irrevocably committed to non-farm use. The criterion is met. The applicant argues that the exception area is characterized by existing development that is not being farmed due to soils and topography. No immediately adjacent parcels except one to the west are in farm production. The property is bordered on the southwest and northeast by public roads and industrially zoned parcels to the southeast. The parcels to the northwest are either small parcels in residential use or contain a significant amount of hydric soils that make farming difficult (see Applicant's Exhibits 1, 2, and 4).

ZONE CHANGE

12. The requirements for zone changes are found in MCC (Marion County Code) 17.123.060 and include 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*
 - B. *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*
 - C. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*
 - D. *The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*
 - E. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The Commercial zone is the only zone that implements the rural Commercial designation in the Marion County Comprehensive Plan (MCCP). The MCCP policies that address designating property as Commercial were addressed herein and the proposal is in compliance based on the evidence presented in the goal exception section of this report. The proposal is consistent with surrounding uses that comprise commercial, residential, and quasi-public uses on surrounding lands. Based on the information submitted by Applicant, the criteria for a zone change are satisfied by the proposal.

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for a zone change and comprehensive plan change to change the zone from SA (Special Agriculture) to C (Commercial) and to change the Comprehensive Plan designation from Special Agriculture to Commercial on 24.88-acres, located at 5355 Gaffin Road SE. The Hearings Officer recommends that the Marion County Board of Commissioners GRANT the Application subject to the following conditions that are necessary for the public health, safety, and welfare:

- 1. The applicant shall obtain all permits required by the Marion County Building Inspection Division, including any permits for septic.

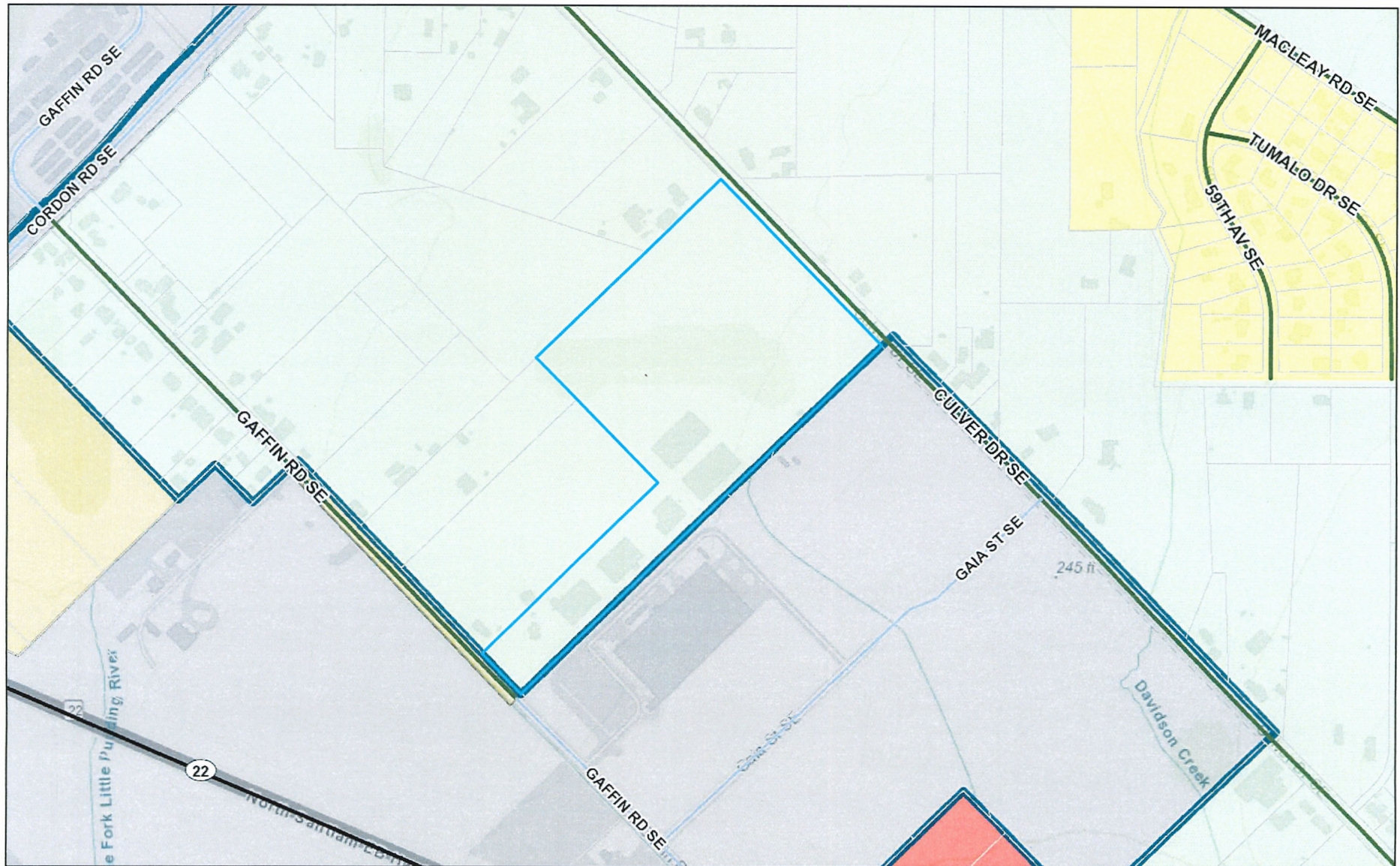
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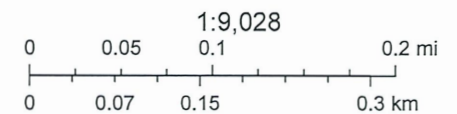
2. All future development on the property must satisfy the specific development standards in the rural C zone, Chapter 17.145, and the general development standards found in chapter 17.112, 17.113, and 17.118 of the Marion County Code.
3. Landscaping or screening shall be provided in the manner described by MCC 17.145.090 (B) adjacent to property lines that abut Special Agriculture zones or other resource zones, in addition to residential zones, when new commercial development is proposed.
4. Applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding of Fact No. 4 above, that may be required.

Land Use Planning Web Map



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Roadways		City Roads	Commercial	Industrial/Commercial	Urban Development
State Roads		Federal Roads	Commercial General	Multi Residential	Urban Transition
County Roads		Private Roads	Commercial Office	Public	UGBs
NCR, Limited Maintenance		Parcels	EFU	Single Residential	County Boundary
Non County Roads	MC Zoning		Farm Timber	Special Agriculture	City Boundaries
County Owned, City Maintained	Acreage Residential		Industrial	Timber Conservation	



MC IT-GIS, MC PW, MC-ASR, MC-IT GIS, MC-Planning, MC-IT GIS, MC IT-GIS, MC Planning, City of Salem, Oregon, Oregon Metro, Bureau of Land

Public Works Planning