



Marion County
OREGON

ZONE CHANGE/COMPREHENSIVE PLAN CHANGE APPLICATION

RECEIVED

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

FEB 25 2022

Fee: Please check the appropriate box:

☐ Zone Change - \$1880+\$30/acre

☐ Comprehensive Plan Change - \$3755+\$60/acre

☒ Zone Change/Comprehensive Plan Change - \$3755+\$60/acre

☐ Mineral Aggregate Site - \$5300 base fee +

\$25/acre - 0-100 acres

\$75/acre - 101-200 acres

\$100/acre - 201-399 acres

\$150/acre - 400+ acres

Marion County
Planning

PROPERTY OWNER(S): <u>JASON J. FEUSNER</u>	ADDRESS, CITY, STATE, AND ZIP: <u>16207 Abiqua Rd NE</u>
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP: <u>Silverton, OR 97381</u>
APPLICANT REPRESENTATIVE: <u>WALLACE W. LIEN</u>	ADDRESS, CITY, STATE, ZIP: <u>1004 Crescent Dr NW, Salem, OR 97304</u>
DAYTIME PHONE (if staff has questions about this application): <u>503-585-0105</u>	E-MAIL: <u>WALLACE.LIEN@LIENLAW.COM</u>
ADDRESS OF SUBJECT PROPERTY: <u>16207 Abiqua Rd NE, Silverton</u>	SIZE OF SUBJECT PROPERTY: <u>5.07</u>
The property owners request to change the zone from (current) <u>AR-10</u> to (proposed) <u>AR-2</u> and/or change the Comprehensive Plan designation from <u>Exception to Goal</u> to <u>14</u> . Provide detailed information on the attached "Applicant Statement" page.	
Will a railroad highway crossing provide the only access to the subject property? () Yes (X) No If yes, which railroad:	

FOR OFFICE USE ONLY:

Township <u>6S</u>	Range <u>1E</u>	Section <u>19D</u>	Application elements submitted:
Tax lot number(s) <u>800</u>	<input checked="" type="checkbox"/> Title transfer instrument		
Zone: <u>AR-10</u>	Comp Plan: <u>Rural Residential</u>	<input type="checkbox"/> 2 Site plans showing existing/proposed zoning	
Zone map number: <u>75</u>	<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural	<input checked="" type="checkbox"/> Applicant statement	
ATPA/header <u>G. Feusner</u>	<input type="checkbox"/> GeoHazard Peer Review (if applicable)		
Case Number: <u>ZC/CP 22-002</u>	<input checked="" type="checkbox"/> Filing fee		
Signs given (min. agg. only):	Application accepted by: <u>JAB</u>		
Date determined complete:	Date: <u>2/25/2022</u>		

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

PRINTED NAME AND SIGNATURE of each owner of the subject property.

JASON J. FEUSNER X [Signature]
Print Name Signature

Print Name Signature

Print Name Signature

Print Name Signature

DATED this 25 day of Feb, 2022

**BEFORE THE PLANNING DIVISION
FOR MARION COUNTY**

In the Matter of the Application of:)

JASON J. FEUSNER)

File No. _____

To change the zone from AR-10 to AR-2,)
and to amend the comprehensive plan to)
include an Exception to Goal 14 on)
addressed at 16207 Abiqua Rd NE,)
Silverton, Tax Lot 800, Map 6.1E.19D)

APPLICANTS' JUSTIFICATION

COMES NOW applicant, JASON J. FEUSNER, by and through his attorney, Wallace W. Lien, and does hereby submit the following Applicant's Justification which sets forth the legal and factual justification for approval of this application.

I. NATURE OF THE APPLICATION

The purpose of this application is to change the zone from AR-10 to AR-2, and to take an Exception to Goal 14. This change will allow the Applicant to divide the 2 acre parcel that fronts Abiqua Road from the rear 3 acre parcel that contains the Applicant's existing home place at some point in the future.

The subject property is designated Rural Residential in the Marion County Comprehensive Plan, because of the proposed increase in density, a Goal 14 Exception is required which then necessitates an amendment to the Marion County Comprehensive Plan. No other Exception is required as all the resource Goals were excepted from in Ordinance No. 1215 when the property was designated for Rural Residential Use. A copy of Ordinance No. 1215 is attached hereto as Exhibit K.

This application is a duplicate of the Alagoz application that was approved by Marion County

in Ordinance No. 1426, a copy of which is attached hereto as Exhibit I.

II. BACKGROUND FACTS

Applicant acquired this property on July 11, 2014. The deed is attached hereto as Exhibit "B". The subject property is located at 16207 Abiqua Road NE, Silverton, Marion County, Oregon, just east of the intersection of Abiqua Road and Cascade Highway (State Hwy 213). The property appears on the Marion County Tax Map T06s, R1E, section 19D as lot 800 and is otherwise identified in Marion County Tax Assessment records as Account No. 537566. A copy of Marion County Tax Assessor's Map 61E19D is attached hereto as Exhibit C.

The subject property actually is divided by Abiqua Road, with a small triangular shaped area being located on the south side of Abiqua Road, while the remainder of the parcel is located on the north side of the road. See Exhibit C.

On August 4, 2005 the Marion County Board of Commissioners Granted a Comprehensive Plan Amendment for the subject property and the Alagoz property (Tax Lot 900 adjoining to the West) from Primary Agriculture to Rural Residential and a zone change from Exclusive Farm Use to Acreage Residential - 10. While this case approved a Goal 3 Exception, no Exception was taken to Goal 14. It is notable that the AR-10 zoning change was approved despite the fact that the subject properties consisted of only 5 acres each, and therefore automatically became a non-conforming parcel.

On December 9, 2020 the Marion County Board of Commissioners Granted a Zone Change and Comprehensive Plan Amendment (Exception to Goal 14) for the adjoining Alagoz property (Tax Lot 900 adjoining to the West) which allowed that property to be re-zoned to AR-2, as well as a partition to divide that property into two parcels (one at 3 acres, the other at 2 acres). Exhibit I.

This application is a mirror image of the approved Alagoz application. The two properties are nearly identical. The two parcels are contiguous, and even the layout of the existing homesite and future location of the new parcels are the same. The law is the same as when the Alagoz approval was given, and basically all of the facts that supported that application exist in this case.

The subject property is generally flat, and is currently developed on the northerly portion of the property with a single family dwelling, attached garage and large shop. The house is provided water by a domestic well, and sanitation is provided via a septic system. Access to the house is taken from Abiqua Road. The access drive is along the easterly boundary, and the approach to Abiqua Road meets driveway permitting standards. Any future partition will take its access from this same driveway. No new drive, or access point onto Abiqua Road would be necessary. See the Site Plan drawing and aerial photograph. Exhibit G.

The property is bordered to the east by the Alagoz property, and to the north by farm land consisting of larger parcels in the 10 plus acre range. To the immediate south of the property, along Abiqua Road, the properties consist of small acreage residential properties. Further south, and to the west of the property there lies a large and rambling area of land that consists of smaller residential properties zoned AR. The existence of this large area of AR zoned property and the many two acre and smaller residential properties were part of the rationale behind the zone change of the subject from EFU to AR-10. The surrounding area is depicted on the aerial photographs included here as Exhibit E.

A copy of the Marion County Zoning Map is attached as Exhibit D. The subject property is not located in a flood plain or area of environmental significance. The site is located in a Groundwater Limited Area. The Applicant has commissioned a full hydrogeologic study. The

Water Use Inventory, the peer review approval and the staff letter noting the approval of the full hydrogeologic report are attached here as Exhibit F. As indicated in that staff letter, the full hydrogeologic report is already in the Record of this proceeding, so a copy there of is not included here.

Because a review the surrounding area is an important consideration in this application, the Applicants have attached hereto surrounding Assessor Maps, and coordinating aerial photographs depicting the area shown on the maps. Exhibit E-4 is an aerial photograph showing the area that is depicted on the Assessor Map 6.1E.19D. Exhibit E-5 is an aerial photograph showing the area that is depicted on the Assessor Map 6.1E.19A. Exhibit E-6 is an aerial photograph showing the area that is depicted on the Assessor Map 6.1E.19. With these corresponding Exhibits, it provides an ease in relating parcelization to uses the land is being put to.

III. PROPOSED USE

The future goal of this application is to partition the Applicants 5.07 acre parcel into two parcels, and to construct a single family residence on the newly created 2.0 acre parcel. No partition is requested at this time however. The area reserved for the future partition, like the Alagoz case is the 2 acres that fronts Abiqua Road. Applicant lives in the existing house.

A detailed Site Plan, showing the existing house, drainfield and well location, as well as the driveway location and configuration of the partition is included here as Exhibit G. An aerial photograph showing the parcel is included in Exhibit G for ease in reference.

IV. GOAL 14 EXCEPTION

The exception process is detailed in ORS 197.732 (Goal II, Part II), and the Oregon Administrative Rules (OAR's) 660-004. The exception justification used by Marion County in

Ordinance 1215 was the “irrevocably committed” exception under ORS 197.732(1)(b) (Goal II, Part II [b]). Exhibit K. The exception process used by Marion County in Ordinance No. 1426 in approving the Alagoz application was also the “irrevocably committed” exception. The subject property qualifies for an exception to Goal 14 on the same basis, and on the same facts determined in Ordinance No. 1426. Exhibit I.

OAR 660-004-0028(1) (Exception Requirements for Land Irrevocably Committed to Other Uses) provides:

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 uses allowed by the applicable goal impracticable[.] (emphasis added)

Whether uses allowed by the goals are impracticable depends upon the characteristics of the (1) exception area; (2) the adjacent lands; (3) the relationship between the exception area and the adjacent lands; and (4) other relevant factors. OAR 660-004-0028(2).

Findings need not demonstrate that every use allowed by the goal is “impossible.” OAR 660-004-0028(3). In addition, OAR 660-004-0028(6) sets forth a number of factors the local government must consider in taking an irrevocably committed exception, which include (1) existing adjacent land uses; (2) existing public facilities and services; (3) parcel size and ownership patterns of the exception area and adjacent lands; (4) neighborhood and regional characteristics; (5) natural or man-made features or other impediments separating the exception area from adjacent resource land; (6) physical development under OAR 660-004-0025; and (7) other relevant factors.

The Applicant relies on the Goal Exception findings in Ordinances No. 1215 and 1426 for compliance with the basic requirements for an irrevocably committed exception. The findings in

Ordinance 1426 that are specifically relevant to this application are as follows:

6. *The subject five-acre property is on the north side of Abiqua Road in the 16100 block, and contains a dwelling. In previous land use case ZC/CP 04-9, the county took an exception to statewide planning goal 3, Agricultural Lands, amended the MCCP designation from Primary Agriculture to Rural Residential, and changed the zoning from Exclusive Farm Use (EFU) to AR-10 on the subject and an adjacent property to the east. The subject property is a legal parcel for land use purposes. The parcel is in a Sensitive Groundwater Overlay (SGO) zone. Surrounding properties to the north, west, and south are zoned EFU. Properties east of the abutting AR-10 zoned parcel are zoned AR-2.*
11. *This application complies with all the approval criteria under OAR 660-014-0030, what follows are the findings and conclusions for compliance with OAR 660-014-0030:*
 - A. *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goal 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors [in Goal 2 and OAR 660-004-0020(2)] need not be addressed.*

The subject property has been proven by an abundance of evidence to be irrevocably committed to urban levels of development as manifested by the adopted AR-2 zoning to be applied. The subject property has already been found to be excepted from the resource goals when the Rural Residential plan designation was applied in Ordinance 1215. The findings and conclusions from that Ordinance are equally applicable here and are adopted in full as follows:

3. *The rezone area is unsuitable for the production of farm crops and livestock based on a combination of small and irregularly shaped parcel size and the level of property improvements.*
4. *The rezone area has not been farmed at all for over 30 years because there is not enough land in a large enough contiguous block to sustain any commercial level of agriculture on the individual lots.*
5. *The subject rezone area is not suitable for farming because most of it was partitioned into small parcels prior to the implementation of Statewide Land Use Planning and Exclusive Farm Use zoning.*

6. *The subject rezone area is unsuitable for the production of farm crops and livestock because surrounding uses are also principally directed to non-resource uses. The only exception to this, is the adjacent land to north - Tax Lot 1000 in T6S, R1E, Sec. 19A.*
7. *The rezone area is compatible with adjacent land dedicated for farm use because that adjacent land has low impact farming operations that involve the production of grass seed.*
8. *The rezone area is compatible with a series of small lots on the south that range in size from 1.00 acre up to 9 acres. There are seven (7) non-resource parcels on the south that are 1 acre in size, and are built with single family dwellings.*
9. *The rezone area is compatible with larger farm units to the north because the orientation of the subject property is to Abiqua Road, more rectangular — running north, south; and the larger farm units in the area, are oriented to the Cascade Highway which separates the larger farm units to the north from the Abiqua exception area, and the subject property.*
10. *The rezone area does not directly border any active farm areas on the east, west, or south, which makes it more compatible with surrounding uses.*
11. *The rezone area is compatible with the farming operations that lie beyond the adjacent lots because the location of the proposed dwellings will be on the south end of the properties near Abiqua Road, a significant buffer of other rural properties, roads, and houses physically segregates the rezone area from those farming areas to the north and southeast.*
12. *The rezone area is compatible with farming operations in the area because the record lacks any evidence from any grass seed farmers or livestock operators that their farming costs or practices are impacted as a result of activities in the rezone area.*
13. *The subject rezone area is compatible with surrounding farm uses because no evidence was submitted into the record that*

indicated that the farm units produced impacts such as noise, dust, odor, glare, vibration, long hours of operation, or spray.

- 14. The subject rezone area is compatible with surrounding farm use because no evidence was submitted that there are any historical records of incompatibility resulting from activities that occur in the rezone area.*
- 15. The subject rezone area is suitable for the intended AR-10 zoning because adequate public facilities and services are already in place to serve the intended zone and parcels.*
- 16. This zoning action requires an Exception to Statewide Goal 3. (Not Applicable Here)*
- 17. This zoning action seeks an Exception to Goal 3 on the basis that the rezone area is irrevocably committed to uses not otherwise permitted in the zone (OAR 660-004). (Not Applicable Here)*
- 18. The rezone area is irrevocably committed to non-resource uses because of the characteristics of the exception area. These characteristics include: small parcel size, and irregularly shaped parcel, septic drainfields, driveways, fences, and an absence of any commercial farm activities.*
- 19. The rezone area was irrevocably committed to non-resource use at the time EFU zoning was applied to the area in the 1970's. The former zoning of FR-5 (Farm Recreational) placed emphasis on residential use because dwellings were permitted outright.*
- 20. The rezone area has no history of any agriculture use during any of the time period that it has been zoned for Exclusive Farm Use.*
- 21. The rezone area has no agricultural uses at the present time, which supports the premise that it is irrevocably committed to non-resource uses.*
- 22. The rezone area is irrevocably committed to non-resource use*

because of the characteristics of adjacent lands. Most notably, the majority of adjacent lands are also in non-resource use.

23. *The rezone area is irrevocably committed to non-resource use because adjacent lands, with the exception of the grass seed fields to the north, make no substantial contribution to the commercial agricultural enterprise of the area.*
24. *The rezone area is irrevocably committed to non-resource use because most adjacent lands are too small and too developed to be utilized for commercial agricultural activities.*
25. *The rezone area is irrevocably committed to non-resource use because the historical use of adjacent ownerships is for non-resource-related uses.*
26. *The rezone area is also irrevocably committed to non-resource use because of the relationship of the rezone area to the lands adjacent to it.*
27. *The rezone area is irrevocably committed to non-resource use because there is no definitive relationship of the rezone area to the farm uses that are adjacent.*
28. *The rezone area does not provide any access to the adjacent farm parcel to the north.*
29. *The rezone area does not provide staging or shipping areas for adjacent or other farm parcels in the area.*
30. *The rezone area does not have utilities or utility easements that are necessary for conducting farming practices or activities on adjacent lands.*
31. *The rezone area does not have people who work on or otherwise provide material support for adjoining farming operations.*

32. *The rezone area does not have water rights or grazing rights that would provide material support for adjacent farming activities.*
33. *The rezone area does not contain any processors or cottage industry uses that materially contribute to farm uses on adjacent parcels.*
34. *The rezone area does not contain any laboratories, test plots, buffers, or other uses that contribute to the commercial agricultural economy on adjacent parcels.*
35. *The rezone area does not contain any areas that could be leased or otherwise integrated into existing adjoining farm uses.*
36. *The rezone area is not connected by ownership or use to any surrounding properties.*
37. *The rezone area can also be deemed irrevocably committed to non-resource use based on other relevant factors.*
38. *The rezone area is buffered by small non-farm parcels to the west, east and south as well as by Abiqua Road (south only).*
39. *The rezone area consists of a group of small parcels attached to other small non-farm parcels rather than an isolated group of parcels totally surrounded by farming areas, which is more characteristic of areas that are irrevocably committed.*
40. *The rezone area and surrounding parcels were already established at the time that statewide planning goals were implemented.*
41. *The parcels adjacent to the rezone area to the west and south were not created in accordance with statewide planning goals but pre-existed modern zoning.*
42. *The subject rezone area cannot practicably be farmed*

because of small parcelization and property improvements. A commercial level of farm use is not required; only a finding that the area cannot practicably be farmed.

- 43. The subject rezone area cannot practicably be farmed for agricultural uses — the property is small, irregularly shaped, is not drained, has no water rights, is surrounded on the east, west and south by rural residential parcels with single family dwellings.*
- 44. The subject rezone area has had more than 30 years of non-use for any farming activity. A positive finding can be made that 30 years of non-use is a strong indicator that farm use, for the purpose of making a profit in money, is not practicable at the proposed exception site.*
- 45. The proposed exception area has not been assessed for farm use for 30 years, which supports the premise that the exception area is irrevocably committed to non-resource use.*
- 46. The proposed rezone area is impracticable for farm use because useful portions of the rezone area could not be reasonably joined to farming areas on adjacent and nearby parcels.*
- 47. The subject rezone area cannot be practicably utilized for forest use for same reasons it cannot be used for farming: small lot sizes, improvements, and lack of complementary forest uses in the area.*

Each of these prior findings apply to the facts of this case as well, and the same conclusions should be arrived at. After all, two nearly identical contiguous parcels, with the exact same set of facts should result in the same approval outcome.

This application involves at this time the rezoning from AR-10 to AR-2. There is no partition applied for at this time. The subject property is outside of any Urban Growth Boundary, and by law is considered rural land.

This application involves Goal 14 only, as the other applicable Goals were excepted from in Ordinance 1215. The rules specific to a Goal 14 Exception are found at OAR 660-004-0040, the purpose of which is to specify how Goal 14 "Urbanization" applies to rural lands in acknowledged exception areas planned for residential uses. The OAR applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Goal 3 "Agricultural Lands", Goal 4 "Forest Lands", or both has been taken. Such lands are referred to in this rule as "rural residential areas". This is the exact situation involved in this case, as the subject property is not within a UGB, carries the Rural Residential plan designation, and Ordinance 1215 excepted the resource goals.

An Exception to Goal 14 may be considered so long as it does not allow the creation of a parcel of land for residential use that is not smaller than two acres. This provision is complied with in this case as the proposed zone is Acreage Residential with a 2 acre minimum parcel size. The AR zone in effect on the subject property has been acknowledged to comply with the Statewide Planning Goals, so no text changes to the AR zone are required to approve this Goal Exception.

Provisions relating to parcels that are within one mile of a UGB do not apply to this application as the subject property is more than one mile from the nearest UGB. Provisions relating to Measure 49 similarly do not apply, as the subject property does not have a Measure 49 approval.

Also applicable to this Goal 14 Exception is OAR 660-014-0030 relating to rural lands that are irrevocably committed. This OAR discusses an irrevocable commitment to an urban level of development. In this case, what is proposed is not an urban level of development, as the AR-2 zone ensures that no parcel can be created that is less than 2 acres in size.

In this case, the Exception to Goal 14 is justified based on the extensive level of development around the subject property. In the Alagoz case (Ordinance No. 1426) the study area focused on Assessor Map 6.1E.19D which included 40 parcels, 36 of which have rural residential dwellings. The average parcel size on this map is 2.99 acres, and 13 of the 40 parcels are less than 2.0 acres in size. Looking at this base data, the average parcel in this area would be 2.99 acres with a rural residential dwelling. This level of development was determined to commit the Alagoz property to small rural residential parcels, and the Exception to Goal 14 was justified.

In this case the study area has been expanded to include lands on the two adjoining Assessor Maps, which renders basically the same result as in Alagoz. Here the median parcel size is 2.38 acres, and 17 of the 48 parcels are under 2 acres in size. 42 of the 48 parcels have existing dwellings, and 2 have multiple dwellings. This data confirms the same basic facts exist here as did in the approved Alagoz case.

The OAR process reviews the Exception based on the situation at the subject property. The exact nature of the irrevocable commitment must be stated, and the study area must be shown on a map. In this case the exact nature of the irrevocable commitment is shown in the study area Inventory. See Exhibit J. The study area is also reflected in the Assessor Maps attached hereto as Exhibit C as required by the OAR.

As noted, the study area for this application has been expanded to include maps 6.1E.19 and 6.1E.19A. Exhibit C. This expanded study area encompasses 256.07 acres of land on the three combined maps. There are 48 parcels in the study area. The median size parcel in the study area is 2.38, and the average is 5.33 acres. 42 of the parcels currently have at least one dwelling, and 2

parcels have multiple dwellings, which means that 87% of the parcels in the study area have dwellings. Only 8 parcels have qualified for farm tax deferral, which is only 16% of the study area, meaning that 84% of the parcels have non-farm dwellings on them.

There are two owners that own an additional contiguous parcel. Hozen owns both TL301 and 702 on Map 6.1E.19D but they essentially function as one combined parcel. TL702 is only 1.03 acres in size and the land is nearly fully developed. TL 301 is only .37 acres in size and appears to have been added for buffer and/or septic repair area.

Beyer owns both TL400 and 401 on Map 6.1E.19D. Each of these parcels were lawfully created on PP 2002-029, and are being held as investments for resale

There is nothing in these two combined ownerships that impact the character of the neighborhood, or the facts supporting approval of this application. If anything, TL301 being a separate parcel without a dwelling used in conjunction with an existing dwelling skews the ratio of the parcels with dwellings as compared to parcels without dwelling. Figuring TL301 and TL702 as one parcel, it would be 1.4 acres in size total with one dwelling. The total number of parcels without a dwellings in the 48 parcels in the study area would decrease by one. The result would then be that of the 48 parcels in the study area, 43 would have a dwelling raising that percentage by 5% to 89% total.

The study area Inventory Summary is included here as Exhibit J. This summary includes some basic analysis of the parcels. All this data is taken from contemporaneous records of the Marion County Assessor. The data sheets from which this information was derived is voluminous, and is public record, therefore this background information is not included here. In the event there

is a request for any of this data, it can be produced on demand.

The OAR requires a review of the study area to determine the size and extent of commercial and industrial uses. This study area includes no commercial or industrial uses. The entire area is rural residential housing on small parcels with some agricultural areas included.

There are no urban services in this area. There are no city or special districts in the area. All utilities are rural in nature. Water is provided by domestic water wells, not by hook up to a community system. Sanitation is provided by septic systems, not by connection to a community sewer system.

There is nothing about the potential future addition of one new parcel and dwelling that will encourage or otherwise cause the need for an urban level of utilities to come to this area.

The sizing of parcels, and ownership patterns in the study area have been reviewed. The parcel size question has already been discussed.

Based on all the present factors, the subject property complies with the Exception process for Goal 14 to demonstrate that the subject property is irrevocably committed to a level of development and parcel sizing that will allow the potential future partition of this 5.07 acre parcel into two parcels of 2.0 and 3.0 acres, and for one new house to be placed on the newly created parcel.

The Marion County Comprehensive Plan chapter on rural development acknowledges that a "rural home site can provide unique scenic and open space benefits and an alternative housing type and lifestyles that has important social and personal benefits." As to the location of rural residential areas, the M CCP states:

"The designation of rural residential areas is the result of a process of elimination. Separating out agricultural lands, forest lands, urban areas and lands that are

Page 15 - Applicants' Justification (Feusner)

undevelopable due to hazards leaves lands that are suited to rural residential development. . . . These lands include parcels that are divided or built upon to the degree that they are no longer available for farming or timber production, are irrevocably committed to no-agricultural [sic] uses or consist of predominantly unproductive soils." (emphasis added)

The subject property meets the above description perfectly. An Exception to Goal 3 has already been taken for the subject property on the basis of the impracticability of agriculture, and other rural uses on the site, and the surrounding residential uses.

MCCP Rural Residential Policy (RRP) No. 8 states that the overall density of Rural Residential areas should range in size from 1.5 to 3 acres. The AR-2 zone proposed here will allow a minimum lot size of 2 acres, within the allowable density. This proposal would allow one additional parcel within the projected size range. The allowable size lots here would large enough to provide a rural-type atmosphere, yet small enough to provide a rural lifestyle in a cost-effective manner. They would be small enough to use land efficiently, yet large enough to provide setbacks and buffers from adjacent uses.

Rural Residential Policies No's. 9 and 10 state that rural tracts shall be approved where they have (1) capacity to dispose wastewater; (2) are free from natural hazards or the hazard can be adequately corrected; (3) there is no significant evidence of inability to obtain a suitable domestic water supply; and (4) there is adequate access to the parcel. The subject property meets all of these criteria.

The proposed lots are self-sufficient and eliminate the public cost of providing basic utility services. Therefore, rezoning this land does not affect the ability of any UGB to perform its urban function of providing a full array of urban services to concentrated populations. By contrast,

individuals in this area will be required to provide many services for themselves such as sewage disposal and water supply. The site has the feasibility for construction of a suitable septic system as determined by a local septic system installer. Exhibit H. The site has the feasibility for construction of domestic water well as determined by the HGX Solutions Hydrogeology Study, which was affirmed in peer review by Wood Environmental. Exhibit F.

The subject property qualifies for an Exception to Goal 14, and this application should be approved.

V. COMPLIANCE WITH COMPREHENSIVE PLAN CRITERIA

According to Marion County Comprehensive Plan Policy 2, this application is considered to be an individual property application to be processed as a quasi-judicial amendment. The application is to be reviewed using the zone change procedure in the MCRZO, and can be processed simultaneously with a zone change request. The zone change criteria, and compliance therewith are addressed below.

In addition to being in compliance with the zone change criteria addressed below, the application must be consistent with the statewide land use goals and guidelines. Compliance with those goals is addressed as follows:

Goal #1 - Citizen Involvement - This Goal is primarily aimed at the original creation and the updating of the comprehensive plan. It calls for citizen participation in the planning process. Since this is a quasi-judicial application there will public hearings in which the public will be notified and given the opportunity to be heard on this proposal. This Goal is complied with.

Goal #2 - Land Use Planning - This Goal sets out the basic processes by which land use

decisions are made, and must include findings and conclusions that are based on substantial evidence. The process adopted by Marion County to review this application adequately addresses that due process requirements are met in the decision making process.

In addition, Goal 2 sets forth the process and authorization for taking exceptions to any Goals that can not, or should not, be applied to a particular parcel. The Goal 2 Exception process was previously used to exempt the subject property from the application of Goal 3, and is being used here to exempt the subject property from the application of Goal 14.

This Goal is complied with.

Goal #3 - Agricultural Lands - An exception was previously taken in Ordinance 1215. This Goal is complied with.

Goal #4 - Forest Lands - The subject parcel is entirely classified as Holcomb silt loam soil, with a site classification of III. The soil has not been placed in a woodland suitability group according to the county's soil survey. There are no forestry uses on the subject property, nor in the surrounding area. The soil type is such that the land is not considered to be forest lands, and therefore not subject to protection by this Goal. This Goal is complied with.

Goal #5 - Open Spaces, Scenic and Historic Areas and Natural Resources - There are no identified Open Spaces, Historic Area or Natural Resources located on or near the subject property. This Goal is not applicable.

Goal #6 - Air, Water and Land Resources Quality - Future development will be subject to sensitive groundwater overlay zone requirements as well as septic permitting and stormwater detention regulations. A hydrology study with water budget was submitted to Planning and peer

reviewed. The peer reviewer found SGO requirements were met. Exhibit F. No significant particulate discharges are anticipated. Septic construction has been determined to be feasible. Exhibit H. Goal 6 is complied with.

Goal #7 - Areas Subject to Natural Disasters and Hazards - There are no identified Natural Disaster or Hazard areas located on or near the subject property. This Goal is not applicable.

Goal #8 - Recreational Needs - This Goal is designed to encourage and implement parks and other facilities for recreation. There are no parks or other recreation areas involved in this proposal. This is a small parcel, designated for rural residential use. The one additional homesite that will be possible by approval of this application will have no negative impact on parks, and will not trigger a need for more park land or rural recreational facilities.

This Goal also deals with siting of destination resorts, which is not applicable here. This Goal is complied with.

Goal #9 - Economy of the State - This Goal calls for the diversification and improvement of the general economy of the state, and encourages planned uses that will implement these policies. In this case there is a 5.07 acre parcel with one house. The site is large enough to adequately and safely accommodate an additional homesite. By converting idle land to a productive homesite adds to the economy by putting contractors and suppliers to work during construction, and adds to the local tax base. In addition, once the homesite is constructed, its occupants will buy goods and services locally which will further the economy. This Goal is complied with.

Goal #10 - Housing - This Goal seeks to ensure there is an adequate supply of housing of various sorts and types. There is a burgeoning need for rural residential parcels with small acreage.

Bare lots of this type are in high demand, and turn over quickly where there is the opportunity to build a single family house. This area is a classic example of how valued and viable small parcel rural residential living can be. Parcels in the 2-3 acre range, with single family homes dominate the neighborhood landscape. Taking 2 acres of idle land and converting it to a needed rural residential parcel with the ability to build a home on it is exactly the aim of Goal 10. This Goal is complied with.

Goal #11 - Public Facilities and Services - Goal 11 calls for planning in such a manner as to make for the most efficient use of public facilities, and not to place an undue burden on any sector. Here, the new parcel will be served by a well and septic system, so no public water or sewer systems will be needed. In the future, upon partition, the new parcel will use the existing driveway access point onto Abiqua Road, which driveway is already approved by the County as to type and location. Abiqua Road has sufficient capacity to handle one more house which is anticipated to generate no more than 8-10 average daily traffic trips. One more home will have no adverse impact on law enforcement, fire coverage or the school system. This Goal is complied with.

Goal #12 - Transportation - This Goal aims to provide a safe and convenient and economic transportation system. As noted above, Abiqua Road has sufficient capacity to handle one more single family home. The access point to the road already exists in an approved location. There will be no significant impact on any transportation facility due to the addition of one more home in this location. In addition, the Transportation Planning Rule (TPR) now provides for a safe harbor for new developments that generate less than 400 trips per day. Since there are estimated to be no more than 10 trips per day generated here, the safe harbor rules provide for automatic compliance with the

TPR. This Goal is complied with.

Goal #13 - Energy - According to this Goal, new land uses must be managed and controlled to provide maximum conservation of energy. The new home that will be constructed here will have its building plans approved by the county, and it will include as much energy efficient materials and equipment as possible. This Goal is complied with.

Goal #14 - Urbanization - This Goal is excepted as explained above.

Goal #15 - Willamette Greenway - This Goal does not apply as the subject property is not located within the Willamette Greenway.

Goal #16 - Estuarine Resources - This Goal does not apply as the subject property is not located within any Estuarine Resource area.

Goal #17 - Coastal Shorelines - This Goal does not apply as the subject property is not located within any Coastal Shoreline areas.

Goal #18 - Beaches and Dunes - This Goal does not apply as the subject property is not located within any Beach or Dune areas.

Goal #19 - Ocean Resources - This Goal does not apply as the subject property is not located within any identified Ocean Resources.

In the review of any proposed amendment to the comprehensive plan, it is important to keep in mind that the comprehensive plan itself recognizes it is based only on inventory data available at the time of its adoption, and as new property information is presented, the plan needs to be reviewed and evaluated in light of the new information.

Policy #1 of the plan establishes the need for the plan to be flexible, and incorporate new

information by amending the plan while still maintaining the integrity, and long-term stability and consistency of the plan.

All of the approval criteria for amending the Marion County Comprehensive Plan have been satisfied.

VI. COMPLIANCE WITH ZONE CHANGE CRITERIA

In order to approve a zone change and a comprehensive plan amendment, the criteria stated in MCRZO 17.123.060 must be satisfied. The criteria, and the justification for compliance for both the zone change and the plan amendment is as follows:

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.

For compliance with the Marion County Comprehensive Plan Goals and Policies, it is best to review and utilize the findings made by the County in Ordinance 1215. Selected findings are quoted here, and are equally applicable today (except as annotated) as they were in 2005 when adopted. Findings from Ordinance 1215:

50. *The proposed rezone area is consistent with Rural Residential Policy 7 because it is committed to residential use and not to resource uses. A positive finding can be made that land available for rural residential use, is indeed (sic), and committed to residential use.*
51. *The proposed rezone area is further consistent with Rural Residential Policy 7 because it is close to major employment centers including Woodburn, Salem, Wilsonville and Portland.*
52. *The proposed rezone is consistent with Rural Residential Policy 8,*

which requires efficient use of areas that are already committed to rural residential use.

53. *The proposed rezone area conforms to the recently state minimum parcel size of two acres because all of the parcels in the exception area, though more than two acres, are pre-existing lots of record. Note the parcels that would be allowed here will be 2 and 3 acres in size, larger than the required 2 acre minimum.*
54. *The proposed rezone is consistent with Rural Residential Policy 9 inasmuch as there is adequate domestic water and sewage disposal capability.*
55. *The proposed rezone conforms to Rural Residential Policy 10, which prescribes standards for health and sanitation. All existing lots already have approved septic systems on the property.*
56. *The proposed rezone conforms to Rural Residential Policy 14. The subject site is more than one mile of the Silverton Urban Growth Boundary. No land division is requested or is possible, and no redevelopment plan is needed.*
57. *This proposal conforms to Rural Residential Policy 16 since the zoning designation will become AR-10. All of the lots within the rezone area are below the lot size standard for the zone, and are pre-existing lots of record. This finding is no longer applicable since this application seeks to justify the change in zone from AR-10 to AR in order to allow the division of a 5 acre parcel in the future, while still maintaining the minimum 2 acre parcel size required for rural residential homes.*
58. *Based on the evidence and testimony the Board finds that it is appropriate to condition this approval to further mitigate the potential for conflicts with farm uses in the area by requiring all the property owners to sign and record a declaratory statement advising current and future owners of these properties that there are farm uses in the area. In addition, the Board finds that it is also appropriate to ensure that all of the subject properties have adequate and safe driveway access to a public road. The evidence indicates that two properties need to obtain*

driveway permits from the Marion County Public Works Department. These issues can be made conditions of approval. The applicant has already filed a declaratory statement for the subject property when his existing home was constructed, and that would continue to apply to both parcels after the land division, since the declaratory statement runs with the land. In addition, the subject property also has an approved and fully functional safe access point onto Abiqua Road, which both the existing and any new future parcel would use.

59. *The proposed AR-10 zone will be consistent with the new Rural comprehensive plan designation. All applicable MCCP policies have been addressed and satisfied by this request. The proposed AR zone is also consistent with the rural residential plan designation.*
60. *The proposed zone change will not alter the pattern of development in the area. The pattern of development was established years ago, and this request will be in conformance with the surrounding rural residential parcels.*
61. *The subject property is located along Abiqua Road NE and all utilities are located along Abiqua Road NE. There are adequate public facilities; services and transportation networks in place which currently serve the subject property.*
62. *The subject property is best suited for the proposed zone change. There are very few parcels or areas zoned AR in Marion County that are not already fully parcelized and developed with residential homes. The subject parcel is unique in that it is fully serviced, has all necessary infrastructure and public facilities in place to serve the property. The property has septic systems on each parcel. The property has good access and frontage on a county road. The property is not located in a flood plain or area of environmental significance.*

Findings from Ordinance No. 1426 in support of this application are set forth above and won't be repeated here for the sake of brevity.

This application complies with and satisfies the goals and policies of the comprehensive plan.

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

As discussed above, and as determined by the County in Ordinances 1215 and 1426, the surrounding land uses and density create a pattern of development that supports small parcel rural residential homesites.

The study area here includes 48 parcels, 42 of which have rural residential dwellings, and 2 of those parcels have multiple dwellings on them. The median parcel size in the study area is 2.38 acres, and 17 of the parcels are less than 2.0 acres in size. Looking at this base data, the median parcel size is nearly exactly the density proposed here.

This criteria is complied with.

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

As previously discussed, there is no need for public sewer or water systems, as those utilities will be provided on-site by well and septic system. Law enforcement, fire protection and educational opportunities are available with sufficient capacity to serve one more new home in this area. Abiqua Road has sufficient capacity to handle one more home, and by using a combined existing driveway, the ease and safety of access to Abiqua Road is ensured.

This criteria is complied with.

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.

The inventory of small acreage parcels in Marion County is low, and does not meet the

demand for that kind of rural residential living. Parcels in the 2-3 acre size range do not stay on the market for any length of time. In addition to the unavailability of small parcel land, none of those parcels that are available are as well suited as the subject property due to its location amongst the high degree of density in this area, and the ease for which access can be taken and water and septic provided for. Placing one new 2 acre homesite on the subject property will match it up with the predominate use and parcel size in the neighborhood. Converting this idle land to a productive rural residential homesite make it the highest and best use for the land as compared to other lands in the County.

As is pointed out in the Inventory Summary, there are no parcels that can reasonably or adequately be partitioned in order to create an addition small parcel for construction of a single family home, due to size (over 4 acres in the AR zone) or zoning (EFU) restrictions. The only two parcels that are AR zoned and are 4 acres or over, have no evidence of ability to partition.

Tax Lot 300 6.1E19D is just over 4 acres in the AR zone, however it was already partitioned in 2016 in order to create the size parcel desired by the owner. There is no evidence this site could be partitioned further, even if the owner attempted it. There is no evidence it is capable of having a septic system, or a well in this Limited Groundwater Area. There simply is no evidence that this parcel is actually capable of being further partitioned, and such can not be assumed.

Tax Lot 2700 on Map 6.1E19D is a flag lot that is just over 7 acres in size, by far the largest AR parcel in the neighborhood. This parcel has been in the same ownership since Mr. Mills purchased it in 1988 on contract from the previous owner. Since his acquisition, 34 years have passed without the construction of a structure or dwelling, or any attempt to partition the property.

Based on this history alone, it is clear no land division on this parcel is intended, and certainly based on the evidence here, there is no support or justification for a finding that this parcel can be divided such that it would be available and well suited to a 2 acre rural residential parcel. Again there is no evidence this parcel could sustain a septic system or have a domestic well produce sufficient capacity without adverse impacts on surrounding properties. Further, this parcel has a long driveway that would require considerable expense to construct an access to any partitioning that might occur there in the future. The site is too large to be useful as a rural residential parcel, as the evidence here demonstrates. As with TL300, there is no evidence to show that TL2700 is capable of being partitioned.

This criteria is complied with.

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 result of this application is not to change the zone itself. The Acreage Residential zone, and all of its regulations will continue to apply to the subject property. What is requested here is simply to remove the 10 acre minimum parcel size limitation. Because there is no change in the text of the zone, or what uses are allowed, or not allowed, the removal of the 10 acre minimum lot size will have no adverse affects at all.

This criteria is complied with.

VII. ADDITIONAL JUSTIFICATION

Additional justification for compliance with the approval criteria is also present in the

Ordinance No. 1426 findings and conclusions as follows:

Based on the county property records and the Assessor Maps, each of the tax lots identified in the Study are lawfully created independent land use parcels.

Based on the evidence and testimony presented in the Alagoz case, there is a lack of resource activity taking place on the Appleton Parcel (TL2300, Map 1.6E.19D); the Chernishoff Parcel (TL1700, Map 1.6E.19D); the Dahe Parcel (TL1000, Map 1.6E.19A); the Mills Parcel (TL200, Map 1.6E.19D); the Milligan Parcel (TL1100, Map 1.6E.19D); and the Watson Parcel (TL2400, Map 1.6E.19D). There has been no change in these facts since the approval of Ordinance No. 1426.

There are three tax lots associated with the Grieten name: TL 900 on Map 6.1E.19, TL 1200 and 1900 on Map 6.1E.19D. However, each of those parcels are owned by different members of the Grieten family, and therefore are not merged in the EFU zone for tract consideration purposes.

There are 48 parcels in the study area, not counting Reserve Strips. There are 42 houses and a total acreage of 256.07 in the study area. The median parcel size, without adjustments is 2.38 acres. 17 parcels in the study area are in the EFU zone; 30 are in the AR-2 zone; and 1 is in the AR-10 zone. 8 of the parcels have farm tax deferral status.

87% of the parcels in the study area have a dwelling. Only 16% have full farm tax deferral status, and several of the deferrals show no current resource activity drawing into question the credibility of using farm tax deferral status to determine the present use of the land.

Nearly all of the EFU zoned parcels in the study area are not large enough to constitute farm properties, and none of these small parcels are in farm use currently. Tax Lots 1300, 1400, 1500, 1600, 1700 and 1800 (Map 6.1E.19D) are all under 1.5 acres in size, despite the EFU designation

applied to them. Tax Lot 2200 on the same map has already been disqualified from farm tax deferral when a non-farm dwelling was approved on that parcel. On the same map, Tax Lots 2300 and 2400 are 4.34 and 6.97 acres in size respectively, and each has a non-farm dwelling and little evidence of any farming other than mowing of a cover crop to keep the weeds down.

The revised and updated Land Use Inventory supports and justifies the change in plan designation from AR-10 to AR-2 to allow the Subject Property to be divided into two parcels at some time in the future. The Subject Property is 5.07 acres in size. The proposed partition creates one new 2 acre parcel, leaving the parent parcel at 3.0 acres with the existing house. Using the median acreage size in the study area of 2.38, this proposal fits neatly into its surroundings. Where a proposal neatly fits in the parcel size and normal usage for the area, compatibility is assured.

The highest and best use of the subject property is for rural residential living. With the 10 acre minimum lot size, there is a significant amount of land and is not, and can not be utilized for any farming activities, especially here where the parcel is only 5.07 acres to begin with. The parcel is neatly situated for a future partition to allow one more house and thereby fulfills the goal of the Rural Residential plan designation.

This level of development commits the subject property to smaller parcel sizes. The commitment here is for a rural land density of the required 2.0 acre minimum lot size in the AR zone, and will not allow development at urban levels that are less than 2.0 acres in size.

In the study area, there are 12 parcels 1.5 acres in size or under; 6 parcels are over 1.5 but are 2 acres or under in size; 13 parcels are over 2 acres but are 3 acres or under; 8 parcels are over 3 acres but are 5 acres or less in size; 5 parcels are over 5 acres but under 10 acres; and 4 parcels are

over 10 acres in size. All parcels are under separate and different ownership except for the two parcels mentioned above.

The Subject Property is currently AR-10 zoned which is primarily a rural residential zone with some limited agricultural activities allowed. The property to the north is a farm parcel that has co-existed with the subject property for years successfully. The same is true of the EFU parcel to the west that has recently planted to a small hazelnut orchard. Across Abiqua Road is zoned EFU, but 7 of the 8 parcels that front the road are less than 1.5 acres in size, and the other parcel is only 6.73 acres. 6 of these 7 small parcels have non-resource dwellings located on them. The addition of one more parcel and one more rural residential dwelling will have no impact whatsoever on these EFU parcels. As to the farm to the north, any future land division would be located on the southern portion of the property and would not share a boundary, and further would be buffered by the parent parcel. The farm parcel is on the outer limits of the study area and at the beginning of a large EFU area. There are no facts in this case that would suggest that any kind of committed Exception could apply to that parcel that is impacted so little by the residential development in the study area. The area to the west is now a low impact orchard, and the special setbacks in the zone will ensure compatibility.

The evidence presented here demonstrates how the increase in allowable density by one parcel and one dwelling will match in every way the vast majority of parcels in this neighborhood. The median and typical parcel in this neighborhood, as demonstrated in the inventory study, is a parcel that is between 2 and 3 acres in size, in the AR zone, with a dwelling and not on farm tax deferral, with the parcel being adjacent or near to Abiqua Road. This median and typical parcel is

exactly what would be allowed in a future partition. The result of this approval will be turning a 5.07 acre parcel (which is twice the size of the median parcel) into the potential for one additional 2 acre parcel which matches up perfectly with the size parcel that predominates in this area.

No public water and sewer facilities are available on or in the area of the subject property. The subject area is in an SGO zone. Applicant's hydrology review with water budget found 34.39% of available groundwater would be used after the proposed development. The peer reviewer found that the revised water balance and other information submitted in the original hydrology report support conclusions in the report that sufficient groundwater recharge would be available after development, and that there is no evidence of ongoing declines in water levels or excessive well deepenings or replacements in the review area. Applicant has shown it is feasible to provide sufficient on-site water without causing a need to extend water services to the property. Applicant has had the property reviewed by a local septic installer with experience in constructing systems in this area, and it was determined it is feasible for there to be a new septic system approved in the future at such time as the subject property might be divided.

The existing approved driveway would become a combined driveway to serve any new parcel that might be created in a future partition. Other typical urban/rural services such as electrical and telephone services are available to the property.

The subject property is on Abiqua Road and is already developed with one dwelling set back away from the road. The proposed new density would not increase roadway frontage devoted to residential use.

There is already a Declaratory Statement on file that covers the entire 5.07 acre property.

That existing Declaration would continue in effect into the future and would apply to any new parcels created in a future partition.

Setbacks from agricultural uses are not applicable here because there are no agricultural uses that would be contiguous to any new future parcel.

The subject property is about two miles from employment opportunities in the city of Silverton.

The subject property is not within a floodplain or geologically hazardous area. The property is within an SGO zone, however all of the qualifications mandated by the SGO have been completed.

No mobile home restrictions will be applied by the county as to the subject property.

The surrounding land uses, density and pattern of development in the study area is discussed and determined above. The surrounding land uses indicate a typical parcel that is just over 2 acres in size, with a non-resource dwelling, and which has been demonstrated over time to be compatible with the limited agricultural activities that occur in the study area. Of particular note are the row of non-resource parcels that are all under 1.5 acres across Abiqua Road from the subject property, all of which have been in existence for some time without conflict with the farming that occurs next door.

There are no other lands in the area that a single family dwelling could be placed upon or that could be divided up to permit the placement of a single family dwelling. This application will allow a future land division to create one new parcels on land owned by the Applicant. It is not to find and site a new area to place rural residential development for the general good of the county, as this criteria is intended to address. It is one parcel and one owner. The Applicant wants the ability in

the future to divide his own land, not go somewhere else in the County to live. He already lives on the property. Any future partition would be for family, or to supplement income, or provide for retirement. These goals can not be achieved by going off to Woodburn or Stayton or some other area and trying to find an existing parcel properly zoned. There simply are few if any such areas available in any event. What few 2.0 acreage parcels that did exist in the County that were buildable, have basically been bought up during the last two year economic recovery, making it clear that there are no suitable AR vacant buildable parcels in other parts of the County that can be used by the applicants, and certainly none that equal what they already have. The parcels in the study area that have the potential for land division to create new 2 acre parcels include no evidence of the ability to drill a suitable well given the SGO requirements, and there is no evidence these parcels have the feasibility to construct a septic system. Without evidence of the ability to obtain water and septic approval, the potential for land division and allowance for new rural residential dwellings has not been shown. Given these facts, there are no other lands in the study area already designated AR-2 that are either available or as well suited for the anticipated uses due to the lack of necessary evidence on wells and septic that show the parcels can be divided or built upon.

VIII. CONCLUSION

This case hinges on the approval of the Goal 14 exception that would allow parcel sizing to 2.0 acres. Once it is established that the Exception is appropriate, the criteria for the zone change, the plan amendment and the subsequent partition fall neatly into place.

The Goal Exception in this case is justified. The area surrounding the subject property, as shown in the Inventory Study, is predominated by small parcel, rural residential units of land. 87%

of the parcels on the map have small tract dwellings. The median parcel size is only 2.38 acres. Nearly all the parcels are under separate ownership. This highly developed area commits the subject property to higher density of use, that is to say 3.0 acres and 2.0 acres, which is the rural lands density allows in the AR zone.

All the criteria for the zone change, the plan amendment are satisfied, and upon reaching the conclusion that Goal 14 is excepted, those the zone change becomes justified.

As the Marion County Board of Commissioners determined in Ordinance No. 1215 and again in Ordinance No. 1426, this is a highly developed rural area, that commits the subject property to rural residential use. This application should be approved.

RESPECTFULLY SUBMITTED this 24th day of February, 2022 at Salem, Marion County, Oregon.



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