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MARION COUNTY PUBLIC WORKS

MEMORANDUM

TO: Marion County Hearings Officer

FROM: Marion County Planning Division/Austin Barnes

SUBJECT: Zone Change/Comprehensive Plan Change 25-004

DATE: February 23, 2026

The Marion County Planning Division has reviewed the above-named case and offers the following comments:

FACTS:

1. Application of Jubitz Corporation for a zone change and comprehensive plan change to change the zone from EFU (Exclusive Farm Use) to ID (Interchange District) zone and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to Statewide Planning Goal 3 (Agricultural Lands) on a 3.12 acre parcel located in the 12000 block of Ehlen Rd NE, Aurora (T4S; Range 1W; Section 10; Tax lot 1700).
2. The property is located on the southern side of Ehlen Rd NE, directly east of its intersection with Interstate 5. The property is currently vacant other than a telecommunications tower. The property was created in its current configuration through PLA 24-003 and is therefore considered legal for land use purposes.
3. Properties in all directions except west are zoned EFU and are in various levels of farm production. The area is characterized by filbert orchards and grass seed/hay fields. To west is the Fargo Interchange, which is a collection of parcels zoned ID and developed with various highway related uses, such as restaurants, gas stations and mechanic businesses.
4. Agency Comments:

Oregon Department of Transportation (ODOT) commented:

"The foregoing (application) assumes that no more than 14 pumping stations would ultimately be developed, or mitigation may be required in association with the land-use action. Transportation impacts of the proposed land-use action proximate to the I-5 Interchange (Aurora-Donald Interchange), and operations of its on/off ramps, would be the main concern (recognizing Alternative Mobility Targets in the IAMP). Our staff would be happy to review any quantitative analysis you could provide related to trip-generation potential of the proposed land-use action.

There is no need for any additional reports on the comp-plan/zone-change, though depending on the scale of *any future site-plans* – a TIA may be needed if the proposed site will either increase peak hour trips by 50, daily trips by 300, or result in an increase of total-entering-vehicles (TEV) in excess of 10% at any access point onto a state highway.

At the comp-plan/zone-change phase, I compare most-intensive use allowed under current and proposed comp-plan/zoning. Based on my planning-level assessment of best uses under your ID-zoning, it appeared a most intensive-use scenario *might be* a gas and market station, with approximately 14 pumping stations. It is my opinion that anything larger than that may generate enough new trips to surpass thresholds for trips-generated, then requiring mitigation at the comp-plan/zone-change phase.

Applicant is welcome to provide their own trip-generation estimates, though I do not think it is necessary at this phase *if* the above “most intensive” scenario sounds reasonable.”

Marion County Building Department commented:

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

Marion County Septic commented:

“A site evaluation was conducted in 2024 to establish septic viability for an automotive shop with 15 employees. Any change in proposed gallons per day will require that the system be stake out to verify an initial and repair area fits within the approved area from SE 555-25-001446-EVAL. If the proposed daily flow exceeds 2500 gallons per day, a WPCF permit and additional test pits may be required by the DEQ. This will not be required at this time for the zone change but will be required prior to development.”

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

STAFF FINDINGS AND ANALYSIS:

5. In land use actions of this type, the applicant has the burden of proving compliance with all applicable criteria. This report will outline the criteria that must be satisfied in order for an approval to be granted. If the applicant supplied argument or evidence to address specific criteria, the response will be summarized. The comprehensive plan criteria will be addressed first, followed by the zone change criteria.

GOAL EXCEPTION

6. 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 Lands). 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 exception.

STATEWIDE PLANNING GOALS

7. 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.

Goal 2: Land use Planning. The subject application to amend the Comprehensive Plan is considered under the regulations for this goal.

Goal 3: Agricultural Lands. The applicant is proposing an exception to this goal. If approved this goal does not apply.

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. While this zone change does create more commercial development and jobs, consistent with goal 9, it is outside of an urban growth boundary and therefore does not apply.

Goal 10: Housing. This goal applies to housing within an urban growth boundary and, thus, does not apply to this proposal.

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 met.

Goal 12: Transportation. Were the rezone granted 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 this proposal either.

Goal 13: Energy Conservation. There is no indication of energy use increase or decrease based on the proposed zone change and comprehensive plan change. This goal does not apply.

Goal 14: Urbanization. The applicant is proposing to rezone rural residential land to Commercial outside of the urban growth boundary. Therefore, the proposal complies with Goal 14 and does not require an exception to Goal 14.

Goal 15: Willamette River Greenway. There is no Willamette Greenway present on this parcel.

Goal 16: Estuarine Resources. There are no estuarine resources present on this parcel.

Goal 17: Coastal Shorelands. There are no coastal shorelands present on this parcel.

Goal 18: Beaches and Dunes. There are no beaches or dune on the parcel.

Goal 19: Ocean Resources. There are no ocean resources present on this parcel.

COMPREHENSIVE PLAN AMENDMENT

8. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). DLCD was notified as required by State Law and did not provide additional comments or express concerns.
9. 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 owner, all having an existing use, the proposal can therefore be considered under the quasi-judicial amendment process.
10. 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, the Rural Service Policies, Rural Service Center Development Policies and the Agricultural Lands Policies which are located in the Agricultural Lands section of the comprehensive plan:

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 parcels in the area are currently developed with commercial uses or farm uses and any additional development would not be expected to have any additional impact on surrounding agricultural and rural residential lands. This zone change would extend the ID zoning to the extent possible allowed by vacant lands in the area, this would make the land more compatible with existing uses as there is already ID zoning to the west. The area already sees commercial traffic on Interstate 5 along with the commercial farm businesses in the area. The applicant did not show any proposed development on the site plan but indicated that the proposal will expand an existing interchange district node rather than create a “strip type” development. This proposal would be compatible with existing uses in the area. The policy is met.

Rural Service Center Development Policies:

1. Where there is a demonstrated need for additional commercial uses in rural Marion County they should be located in designated unincorporated communities.

The subject property is not located within an unincorporated community, but much of those lands are already developed and do not have vacant parcels for development. The applicant acknowledges this policy and notes that the proposed Comprehensive Plan Amendment and Zone Change are not based on demonstrating a need for additional commercial uses in rural Marion County generally, nor on locating new rural commercial development in an unincorporated community.

Instead, the subject property is a small remnant parcel that is irrevocably committed to non-resource use as a result of permanent public transportation improvements and associated site constraints. The parcel was created as a consequence of the Oregon Department of Transportation’s I-5 interchange improvements and is physically and functionally defined by interchange infrastructure, roadway access, and surrounding non-resource development. These conditions distinguish the site from typical rural lands where Policy 1 is intended to direct the siting of new commercial uses based on demonstrated need.

The proposed redesignation does not establish a new rural commercial area or encourage dispersed commercial development in rural Marion County. Rather, it recognizes the existing condition of a parcel that has already been removed from the agricultural land base and is functionally integrated into an interchange environment. The proposal is consistent with this policy.

2. The boundaries of identified unincorporated communities shall not be expanded to accommodate additional development.

No boundaries are being expanded. This policy does not apply.

3. Service districts within unincorporated communities may be created and expanded to serve the entire designated rural community; however, services shall not be extended outside of the community unless necessary to correct a health hazard.

No boundaries are being expanded and the proposal. This policy does not apply.

4. Public facilities in rural communities and rural service centers should be designed to service low density rural development and not encourage urbanization.

This is understood by the applicants. This proposal is not within a rural community and is just outside of a rural service center and does not encourage urbanization. The policy is met.

5. Additional residential development should be discouraged within Interchange District zones at rural service centers. Only rural service businesses and related uses should be located at these centers.

This proposal does not involve residential development.

6. Zoning ordinance provisions shall ensure that new uses permitted in unincorporated communities will not adversely affect agricultural and forestry uses.

The use is not within an unincorporated community and will not adversely affect farm or forest lands. The policy is met.

7. Multifamily zoning shall not be permitted in rural communities or rural service centers.

No multi-family zoning is proposed. The policy is met.

8. The Fargo Road, Brooks, Sunnyside-Delaney, North Jefferson, Ankeny and Talbot interchanges along I-5 and the Santiam interchange on Highway 22 are appropriate locations for highway-related services. Other types of commercial or industrial uses shall not be permitted at these locations.

This proposal is directly adjacent to the Fargo Interchange and complies with this policy.

9. Expansion of Interchange District zoning at any particular interchange shall only be considered when:

(a) Adequate services to support freeway-related uses are available;

Applicants state their use can be served by well and septic which have been reviewed and approved already.. The policy is met.

(b) All designated lands at the interchange are committed to development, or vacant designated lands are unsuitable for the proposed use; or

(c) The zoning is needed to allow expansion of an existing use allowed in the Interchange District zone, and it is not economically practical to expand the use on noncontiguous lands designated for interchange development at the same interchange.

All lands in the Fargo Interchange are already developed with highway uses and this is the only practical property to further develop with those uses. The policy is met.

Agricultural Lands Policies:

1. Preserve lands designated as Primary Agriculture by zoning them EFU (Exclusive Farm Use). Lands designated as Special Agriculture should be protected by the corresponding SA zone and farmland in the Farm/Timber designation should be protected by the Farm/Timber zone.

While the property is currently zoned EFU, it is not able to be preserved as farmland due to the existing development of roadways and an intermittent stream that runs through the western edge of the property and also creates a gully. A new road was constructed that essentially orphaned the subject property away from the larger farm parcel. Before the road was built, only 1.77 acres of the subject property was in farm production. The loss of 1.77 acres is not significant enough to not meet this goal. The property is better used in commercial development rather than being left vacant. The policy has been met.

2. Maintain primary agricultural lands in the largest areas with large tract to encourage larger scale commercial agricultural production.

The property is a small, remnant parcel of a larger, 135.23-acre farm parcel. The rest of that parcel is being preserved as agricultural land and meets this policy.

3. Discourage development of non-farm uses on high-value farmland and ensure that if such uses are allowed that they do not cause adverse impacts on farm uses.

The future non-farm uses of the parcel should not have any adverse impact on the adjacent farmlands as they are all divided by rights-of-way and long existing development patterns and access points. This area has many commercial uses that have existed in conjunction with farm uses in the area and this zone change will not create any new adverse impacts. The goal is met.

4. Limit residential uses on high-value lands to those dwellings where past income from the sale of farm products demonstrate that the dwelling will be in conjunction with the farm use. Non-farm dwellings should be limited to existing parcels where the dwelling will be compatible with the surrounding farm area. The approval of non-farm residences shall be based upon findings that the proposed dwelling meets the applicable criteria in OAR 660-033. Approval of a dwelling in the Farm/Timber designation shall be based on the applicable criteria in OAR 660-033 or 660-006.

No dwellings are proposed in this application. This goal does not apply.

5. Divisions of agricultural lands shall be reviewed by the County and comply with the applicable minimum parcel size and the criteria for the intended use of the property.

No divisions of agricultural lands are proposed. The goal does not apply.

6. Farmland should be taxed at agricultural use value.

The land is being changed to ID zoning, the goal does not apply.

7. Additional housing allowed on farmlands shall be necessary for farm management purposes. These dwellings should be manufactured homes so they can be removed when not needed, or be occupied by a relative of the farm operator and sited on the same parcel as the principal dwelling. A deed restriction shall be recorded requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.

No dwellings are proposed in this application. This goal does not apply.

8. The location of new dwellings must comply with density limitations intended to protect major and peripheral big game habitat.

No dwellings are proposed in this application. This goal does not apply.

9. When creation of a non-farm parcel is warranted, the size of the parcel shall be as small as possible to preserve the maximum amount of farmland in the farm parcel. Requirements may need to be imposed when non-farm parcels are allowed in farm use areas to minimize the potential for conflicts with accepted farm management practices on nearby land. These may include special setbacks, deed restrictions and vegetative screening.

This parcel was created as small as possible when it was involved in a property line adjustment (PLA24-003) that created its configuration. The goal is met.

11. 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.*

It is not within an unincorporated community and is not in industrial use, C and D do not apply. Marion County has adopted a rural Interchange District zone and rural Comprehensive Plan designation 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 the county's ID 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 west and at other interchanges in the County, which are zoned ID. The property cannot be farmed in conjunction with any other parcels in the area. No urban public services will be needed to serve the site. The parcels in the area already consist of properties in commercial or highway use. Based on the evidence and findings provided by the applicant and summarized here, the proposal appears to meet the criteria for a goal three exception.

12. 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 lands adjacent. 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.

The applicants have 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 land is segmented and broken off from the lands around it, due to the existence of Dolores Way, right-of-way to the east and south and Ehlen RD to the north. To the west lies more lands zoned ID and developed with a gas station, mini-mart and RV park. If this zone change were to be approved, the subject property would be consistent with this zoning and create a harmonious area of ID zoned land, appropriately buffered and separated from EFU lands in the area such that, no adverse impacts would be expected.

The subject property's relationship with other lands in the area is that it does not have any. Due to its separation it has been left as wasteland, bordered on three sides by roads and a fourth is developed with a gas station..

As explained above in finding #11, the rural ID zone permits uses that do not require public facilities such as sewer or water.

Additionally, Ehlen Rd and Dolores Way have split off this segment of EFU land from its larger, farmable parent parcel. It is now an island constrained on all sides and too small for practicable farm use. (i) above explains how roads may be used to demonstrate that a parcel is irrevocably committed to a non-resource use, this applies here. Much of this development occurred due to ODOT completely re-building this interchange in a multi-year project.

The applicant states:

“After accounting for permanent infrastructure, easements, drainage facilities, and access limitations, the remaining area theoretically available for cultivation is approximately 1.14 acres. This isolated and constrained area does not support commercial agricultural production, does not meaningfully contribute to Oregon's agricultural economy, and cannot be practically farmed using modern agricultural practices. The parcel cannot be reintegrated into adjacent farm operations and no longer functions as agricultural land in any practical or economic sense.

The relationship between the subject property and adjacent lands further demonstrates irrevocable commitment. Surrounding development to the south and west consists of long-established highway-oriented commercial uses, including fueling stations, trucking services, and an RV park. These uses generate traffic volumes, lighting, noise, and operational characteristics that are incompatible with farm use and reflect an interchange service environment rather than an agricultural setting. While agricultural lands remain to the north and east, the subject parcel is permanently separated from those lands by public infrastructure and does not function in coordination with ongoing farm operations.

Considering the characteristics of the exception area, the characteristics of adjacent lands, and the relationship between them, continued application of Goal 3 to the subject property no longer advances the purpose of protecting agricultural land. The parcel has been permanently committed to non-resource use by public infrastructure investment and surrounding development patterns, and it is impracticable for uses allowed under Goal 3.

The proposed Comprehensive Plan Amendment and Zone Change recognize the parcel's irrevocable commitment to non-resource use while preserving surrounding agricultural lands that remain viable and productive. The exception complies with Goal 2 and OAR 660-004-0028 and represents a logical, limited application of non-resource zoning to land that has already been removed from the agricultural land base through public action."

To address (ii) above, the applicant does own lands adjacent to this parcel, but the land is already developed with a gas station.

The proposal meets the criteria for an irrevocably committed exception to Goal 3.

13. The requirements for zone changes are found in MCC (Marion County Code) 17.123.060 and include:

- 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 ID zone is one of two zones that implement the rural Commercial designation in the Marion County Comprehensive Plan (MCCP). The MCCP policies that address designating property as Commercial were addressed earlier and the proposal is in compliance based on the evidence presented in the goal exception section of this report. There is a small amount of lands zoned ID in Marion County and the applicant was unable to find any such lands vacant and available for them. This proposal makes the best use of their vacant land. The proposal is consistent with surrounding uses that comprise commercial, residential, and quasi-public uses on surrounding lands. The applicant has shown how the parcel can be served by well and septic and that uses allowed will not be too intensive for the area. Based on the information submitted by the applicant, it appears the criteria for a zone change are satisfied by the proposal.

CONCLUSION

14. Based on the above discussion, staff recommend the proposed Comprehensive Plan designation change from Exclusive Farm Use (EFU) to Interchange District (ID) and the zone change from Exclusive Farm Use (EFU) to Commercial (C) be approved subject to the following recommended conditions of approval:
 1. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
 2. All future development on the property must satisfy the specific development standards in the ID zone, chapter 17.150 and the general development standards found in chapter 17.112, 17.113 and 17.118 of the Marion County Code.