

***STATEWIDE PLANNING GOAL 3 EXCEPTION
FOR THE HOPMERE PROPERTIES
within the
BROOKS - HOPMERE COMMUNITY PLAN
(Urban Unincorporated Community)***

Exception Area includes the following parcels of land:

***T6S -R2W-S18BC-TL0900
T6S-R2W-S18BC-TL1000
T6S-R2W-S18BC-TL1100
T6S-R2W-S18BC-TL1200
T6S-R2W-S18BC-TL1300
T6S-R2W-S18BC-TL1400
T6S-R2W-S18BC-TL1500
T6S-R2W-S18BC-TL1600
T6S-R2W-S18BC-TL1700
T6S-R2W-S18BC-TL1900***

BACKGROUND

The Hopmere properties included within the Brooks-Hopmere Community Plan consist of ten parcels located north of the intersection of River Road North and Brooklake Road, along the west side of River Road. The properties are identified as Tax Lots 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600, 1700 and 1900 on County Assessor Map T6S-R2W-S18BC. The parcels are currently zoned EFU (Exclusive Farm Use) and range in size from 0.14 acres (6,231 square feet) to 0.62 acres (27,115 square feet). The properties are located between a CR (Commercial Retail) zoned property containing a store located at the northwest corner of the intersection and IR (Rural Industrial) zoned property containing a general contractor and equipment storage use to the west. Farm uses and EFU zoning surround these nonfarm uses in the Hopmere area.

The Hopmere area is a rural community center containing primarily commercial businesses and industrial operations, along with a large public zoned parcel containing the Antique Powerland museum use. The existing uses result in developed lands in the Hopmere area that are within existing exception areas, and they also have committed intervening lands to non-farm uses.

THE BROOKS-HOPMERE COMMUNITY PLAN AND BOUNDARY

The Hopmere properties were included within the Brooks-Hopmere Community Plan boundary as part of the County planning process to comply with the Unincorporated Communities Rule (OAR Chapter 660, Division 22). The Hopmere area is a rural center, and along with the Brooks Interstate 5 Interchange area and the rural community of Brooks, are components of the Brooks-Hopmere unincorporated community plan.

The subject ten parcels in the Hopmere area were not included in the initial community plan boundary since they were not existing exception lands, were zoned for farm use (EFU), and there was no expressed interest by the property owners for inclusion within the community plan boundary. The parcels are developed containing primarily residential uses and non-farm structures on lands that are not in farm use due to parcel sizes and adjacent exception lands which are in industrial and commercial use.

Statewide Planning Goal Exception

The inclusion of the Hopmere properties within the Brooks-Hopmere Community Plan and redesignating the properties from EFU (Exclusive Farm Use) to AR (Acreage Residential), and in the case of the Ross Brothers property (Tax Lot 1700), from EFU to IUC (Unincorporated Community Industrial) requires adoption of a Statewide Planning Goal Exception to Goal 3 - Agricultural Lands. The properties are considered to be “committed lands” or “lands irrevocably committed to other uses” due to the non-farm uses and development of the properties and surrounding uses. Each of the properties are less than an acre in size, with seven of the ten parcels less than half-an-acre in size. None of the properties are used or suitable for farming purposes and non-farm dwellings/structures have been physically developed on the properties. The properties are located between property developed and zoned for commercial and industrial uses. Access to the properties are from either River Road or Brooklake Road.

The requirements for a Goal Exception are provided in OAR Chapter 660, Division 4. The requirements that apply to the inclusion of the Hopmere properties within the Brooks-Hopmere Community Plan are addressed as follows:

OAR 660 04-018: Planning and Zoning for Exception Areas

- (1) *Physically developed and irrevocably committed exceptions under 660-04-025 and 660-04-028 are intended to recognize and allow continuation of existing types of development in the exception area.*

Inclusion of the Hopmere properties within the Brooks-Hopmere Plan boundary and as a committed exception area, will remove EFU zoned property that has been physically developed for other than farm use. The properties are located adjacent to developed commercial and industrial lands that are acknowledged as Goal 3 exception areas as part of the developed and committed exception for the Hopmere area which was designated as a rural community center in the 1981 Marion County Comprehensive Plan. The adoption of an exception for these properties will recognize and allow for the continuation of existing nonfarm development in the Hopmere exception area as part of the Brooks-Hopmere urban unincorporated community plan.

The Hopmere exception area being added to the existing Hopmere exception area that includes existing commercial and industrial development, consists of ten (10) parcels. The existing parcels consist of portions of various lots that were once part of the Chemeketa subdivision plat that was never developed and was vacated. The parcels within the exception area have the following characteristics:

- Tax Lot 0900 - 0.41 acres in size containing a dwelling
- Tax Lot 1000 - 0.14 acres in size that is undeveloped and under the same ownership as Tax Lot 1100
- Tax Lot 1100 - 0.33 acres in size containing a dwelling built in 1910
- Tax Lot 1200 - 0.51 acres in size containing a dwelling built in 1921
- Tax Lot 1300 - 0.14 acres in size that is undeveloped and owned by Marion Co.
- Tax Lot 1400 - 0.38 acres in size containing a dwelling built in 1921
- Tax Lot 1500 - 0.28 acres in size containing a dwelling built in 1943
- Tax Lot 1600 - 0.31 acres in size containing a 1972 manufactured/mobile home dwelling
- Tax Lot 1700 - 0.51 acres in size that contained a dwelling that was removed and the property is used for storage and access to adjoining industrial property to the west
- Tax Lot 1900 - 0.62 acres in size containing a storage structure

The Hopmere area properties in the exception area are physically developed and committed to nonfarm use and are adjacent to and intervening properties to existing exception lands in the Hopmere area. The current zoning of the properties is EFU (Exclusive Farm Use) and the properties will be zoned AR (Acreage Residential) within the Brooks-Hopmere Community Plan which allows for the continuation of the existing residential uses. One of the parcels, Tax Lot 1700 will be zoned IUC (Unincorporated Community Industrial) within the Plan to allow for continued use of the parcel for storage and access in conjunction with the adjoining industrial use which is a general building contractor use.

- (2) *In physically developed and irrevocably committed exceptions, plan and zone designations shall limit uses to:*
- (a) Uses which are the same as the existing types of land use on the exception site; or
 - (b) Rural uses which meet the following requirements:
 - (A) The rural uses are consistent with all other applicable Goal requirements; and

- (B) The rural uses will not commit adjacent or nearby resource land to nonresource use;
and
- (C) The rural uses are compatible with adjacent or nearby resource uses.

The uses on the exception properties are primarily residential and contain dwellings and residential accessory structures. Tax Lot 1700 is used for storage and access for an adjoining industrial use (general contractors business) and Tax Lot 1900 contains a storage structure. The exception area is primarily residential in character and use even though the properties are located in proximity to the intersection of two major streets in the county, River Road and Brooklake Road. The continued use of these developed properties is likely to remain residential though location factors along a transportation corridor and in proximity to commercial and industrial uses may result in a transition in use to nonresidential uses over time. These properties have been physically developed and committed to residential, nonfarm uses due to the size of the properties. Lands surrounding the existing exception area and these properties are in farm/resource use and zoned EFU. The exception area and the uses within the exception area have historically co-existed with the surrounding resource lands, and the residential uses will not commit surrounding resource lands to nonfarm uses as the land use pattern in the Hopmere area has been established by past development and uses for this area.

The uses of the properties within the exception area will be limited through the designation and application of AR (Acreage Residential) zoning to the properties. The AR zoning will allow for the continuation of the existing residential uses. Changes in the use of property to nonresidential use will require application and approval through the quasi-judicial plan/zone change process. The surrounding resource lands outside the established Plan boundary are zoned EFU and cannot be added to the boundary under the provisions of the Unincorporated Communities Rule once the boundary has been established.

Tax Lot 1700 until recently, contained a dwelling which was removed to accommodate access and storage activity for the adjoining industrial property to the west. This parcel is being included in the Plan boundary and the use of the property will be limited through application of the IUC (Unincorporated Community Industrial) zone. The prior residential use of the property similar to other properties in the exception area resulted in development and commitment to nonfarm use. The adjoining industrial property and use for which Tax Lot 1700 is being utilized is an existing exception to Goal 3. The existing industrial property is being included in the Brooks-Hopmere Community Plan boundary and will also be zoned IUC. Since the Brooks-Hopmere Community is defined under the Unincorporated Communities Rule as an urban unincorporated community, the boundary of the community once set, cannot be changed due to the proximity of the community to the Salem-Keizer urban growth boundary. The inclusion of the adjoining industrial properties (Ross Brothers, Inc.) in the plan boundary will result in the existing industrial use and the exception property that is being used for access and storage to be zoned IUC. The IUC zone will allow for the continued use of the property in conjunction with the existing industrial activity and maintains the developed and committed status of the parcel for nonfarm use within the exception area.

OAR 660 04-025: Exception Requirements for Land Physically Developed to Other Uses

- (1) Local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

The land subject to the exception consists of ten parcels comprising 3.68 acres, all of which are less than an acre in size, with seven of the parcels less than a half-acre in size. The land is physically developed primarily with residential uses and the exception area is surrounded by existing exception areas developed for commercial and industrial uses. The northernmost parcel is adjacent to EFU zoned land and is currently being used for storage and access for an industrial use, though the parcel used to contain a dwelling. The size of the parcels and the physical development of the exception land for residential use preclude the lands from being used for farm or resource uses.

- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map, or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

The exception area has been the site of a platted subdivision that was vacated, and the individual parcels comprising the exception area consist of portions of the previously platted subdivision lots. The exception area contains residential structures that have been developed on individual parcels that surround a commercial business (community store) that is located at the corner of River Road and Brooklake Road, and flanked by an industrial use to the west. Of the ten parcels in the exception area, two are undeveloped, six contain dwellings, one is being used in conjunction with the adjacent industrial use, and one contains a storage building. The exception area is surrounded by commercial and industrial zoning, with EFU zoning to the north and to the west of industrial use. River Road and Brooklake Road are boundary streets to the exception area, with the Burlington Northern Railroad right-of-way adjacent to River Road to the east. The ten parcels are each less than an acre in size and are not suited to resource/farm use or zoning. The properties are presently on septic systems and wells and are served by private utilities. The inclusion of the exception area within the community plan boundary will provide the opportunity for public facility services (sewer and water) should the extension of such facilities to the Hopmere area occur in the future. The residential use of property in the Hopmere area predates the establishment of resource zoning in the area such that the physical development of the property and creation of the parcels in the exception area make adherence to or future use of these lands for farm or resource uses both limited and unlikely to occur.

OAR 660 04-028: Exception Requirements for Land Irrevocably Committed to Other Uses

- (1) 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.
- (a) A committed exception is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule.
 - (b) An exception area is that area of land for which a committed exception is taken.
 - (c) An applicable goal is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

Existing adjacent commercial and industrial uses, the size of the parcels in the exception area which are each less than an acre with seven of the ten being less than half an acre, and the physical development of the parcels for residential uses, make exception area more suited to rural residential use rather than farm or resource uses under Goal 3. The exception area is part of land once platted for a subdivision (Chemeketa Subdivision) which was not developed and was vacated as a plat. The application of resource zoning and uses to the exception area is impracticable due to the physical development of the properties which have been committed to nonfarm uses and the nonresidential development of adjacent lands. The conversion of the exception lands back to farm use is not practical due to the nonfarm development pattern in the exception area and commitment of the properties to nonfarm uses.

- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:
- (a) The characteristics of the exception area;
 - (b) The characteristics of the adjacent lands;
 - (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).

The exception area lands are irrevocably committed to nonfarm use as evidenced by the existing residential development/structures on the properties. The exception area consists of ten parcels that are adjacent to major county roadways (River Road and Brooklake Road) and commercial and industrial uses within the Hopmere area that are existing exception areas and part of the Brooks-Hopmere Community Plan. The parcels contain residential structures on parcels that are mostly less than half an acre in size. The lands adjacent to the existing commercial/industrial exception area for Hopmere are in farm/resource use and zoned EFU on large acreage parcels, or dwellings on acreage parcels surrounded by farm uses. The exception area properties are physically connected and a part of the surrounding commercial/industrial exception areas rather than the surrounding resource zoned lands due to their location and proximity to these surrounding uses. The existing industrial use (Ross Brothers, Inc.) surrounds the residential uses within the exception area providing a physically developed separation between the exception area and the surrounding EFU zoned lands. The proximity of the dwellings to each other within the exception area are more comparable to rural residential development with lot sizes that are even more dense than most rural residential areas. The possibility of these properties being used for farm and resource uses under Goal 3 provisions is not practical for the exception area, due to the ownership of the parcels, the size and configuration of the parcels, the structures on the parcels, and surrounding commercial and industrial development. The exception area is physically part of the Hopmere community that has developed with a mix of residential, commercial, and industrial uses, rather than the part of the surrounding EFU resource lands in the area.

The factors set forth under section (6) under item (d) above are addressed in the findings for the factors under section (6) below.

3. Whether uses or activities allowed by an applicable goal are impracticable shall be determined through consideration of factors set forth in this rule. The purpose of this rule is to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource-protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is impossible.

The small size of the parcels within the exception area, the committed and developed adjacent commercial/industrial uses and properties, and the existing physical development within the exception area make uses and activities allowed under Goal 3 impracticable. The application of resource protection goals to surrounding farm zoned properties outside of the exception area will be preserved and not impacted by the adoption of an exception for the ten parcels within the Hopmere area. The exception area is a part of the Hopmere community and land use/development pattern that has been established along Brooklake Road and the intersection of River Road and Brooklake Road.

4. A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

The findings addressing all the applicable factors of section (6) supporting the conclusion that the Hopmere exception area is committed to nonfarm/resource use are provided under section (6) below.

5. Findings of fact and statements of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

The findings of fact that the exception area is committed lands to nonfarm uses are made for the ten parcels collectively rather than each individual parcel. Tax Lot 1700 which is being used for and a committed finding for exception as industrial rather than for residential use are provided as appropriate under the various sections of the rule. The lands within the exception area found to be committed, include parcels that are physically developed for residential use, industrial use, and undeveloped parcels. The exception area along with surrounding commercial and industrial uses in the Hopmere area have committed the lands to non-resource land uses and activities.

6. Findings of fact for a committed exception shall address the following factors:

- (a) Existing adjacent uses:

The exception area is bounded by exception lands to the west and south that are part of the Hopmere community and are included within the Brooks-Hopmere Community Plan boundary. The exception land to the west is industrial in use and zoning, and commercial land exists at the northwest corner of the intersection of River Road and Brooklake Road, which is the southern boundary of the exception area. The exception area is also bounded by Brooklake Road to the south, and River Road to the east, which provides for access to the parcels within the exception area. Land to the east of River Road and along Brooklake Road have traditionally been part of the Hopmere community and are a mix of industrial, commercial, and public uses that are committed exception lands.

The northerly parcel of the exception area is being used for storage and access for the industrial land to the west, and will continue to provide this use in connection with the existing industrial activity. The industrial land to the west was rezoned in 1989 (Plan/Zone Change Case 89-12 with exceptions to Statewide Planning Goals 3 and 14). Tax Lot 1700 which is 0.51 acres in size and is the only parcel that directly adjoins any surrounding EFU land. This parcel contained a dwelling which was removed during the past year to

accommodate access for the adjoining industrial use to the west which is within an existing exception area in the Hopmere community area. Tax Lot 1700 is approximately 80 feet wide by 270 feet deep and is irregular-shaped with access on to River Road. The adjoining EFU lands to the north of the exception area are large acreage tracts that are in farm use, though several home-sites on small acreage parcels exist in the area, primarily along River Road.

(b) Existing public facilities and services (water and sewer lines, etc.);

The exception area is presently served by private wells and on-site sewerage systems. Public water and sewer service can be provided through the Brooks Sewer Service District in the future when the system is extended to the Hopmere area. Currently the District boundary extends to the eastern edge of the Antique Powerland property on Brooklake Road. The inclusion of the exception area within the Brooks-Hopmere Community Plan boundary will enable the exception area to be provided public facilities when they are extended to the area.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) 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 on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. 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.

The exception area consists of ten parcels ranging in size from 0.14 acres to 0.62 acres with seven of the ten parcels being less than a half-acre in size. When the planning process began, the ten parcels had eight separate ownerships (Tax Lots 1200, 1400, and 1500 were owned by the same individual). Currently, there are five separate ownerships (Tax Lots 1200, 1400, 1500, and 1700 are under one ownership; Tax Lots 1000 and 1100 are under one ownership) with the county owning one of the irregular, undeveloped parcels (0.14 acres in size) along River Road.

The exception area was part of an area that extends to the west along Brooklake Road that comprised the Chemeketa Subdivision Plat (refer to map for plat layout). The subdivision was never developed and was vacated. The parcels in the exception area follow many of the original subdivision plat lot lines, and consist of several lots or portions of several of the lots. The dwellings that have been constructed in the exception area are all located along River

Road and were built in the early 1900s. The residential development pattern of the land within the exception area was established in the early 1900s with the construction of the dwellings on several of the parcels in the Hopmere area. A community store was built on the northwest corner of the road intersection. Historically, the zoning in the area was a mix of residential agriculture and farm/resource zoning. The exception area adopted as part of the Marion County Comprehensive Plan in 1980 included the nonresidential uses in the Hopmere area, which included the store on the corner, and industrial and commercial uses to the east of the intersection along Brooklake Road.

The Ross Brothers industrial use to the west of the exception area was created in 1989 through a rezoning and exception to Goals 3 and 14. The commercial and industrial uses comprising the Hopmere exception area adopted as part of the Marion County Comprehensive Plan in 1980 have existed prior to the adoption of the statewide planning goals. These uses established the development pattern in the Hopmere area which were established along the railroad line and roads serving the area, and in support of the farming uses that existed on the resource lands surrounding these uses.

The inclusion of the exception lands as part of the Brooks-Hopmere community plan boundary is being made since the land, the residential use, and its ownership are related to the community instead of the surrounding farm and resource lands. The exception lands are not suited to farm use, and the parcels are developed for residential use, forming a cluster of dwellings and parcels along River Road, that are committed to nonfarm use. The existing exception areas in the Hopmere area surrounding the exception land define the nonfarm use of the parcels, along with the historical use of the land in the Hopmere area.

(d) Neighborhood and regional characteristics;

The Hopmere community defines the neighborhood of the exception area. The lands around the River Road and Brooklake Road intersection are part of the Hopmere rural community center and consist of commercial and industrial uses within an acknowledged exception area. The Hopmere community, the Interstate 5/Brooklake Road interchange area, and the Brooks community are included as part of the Brooks-Hopmere Urban Unincorporated Community Plan. The areas surrounding the community plan boundary are zoned EFU and in resource/farm use. Areas that have developed and are committed to nonfarm use, including the exception areas, have been included within the community plan. The neighborhood surrounding the Hopmere exception area ties these parcels to the community planning area and the development pattern that exists within the plan boundary and existing exception areas, rather than the surrounding farm/resource lands which consist of acreage parcels in farm or resource use.

(e) Natural or man-made 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.

There are no such features separating the exception area from adjacent resource lands. The exception area adjoins other commercial and industrial exception land and Brooklake Road and River Road, except for the north boundary of the exception area which abuts EFU lands.

The north boundary of the exception area follows the one-time Chemeketa subdivision plat boundary which was vacated.

- (f) Physical development according to OAR 660-04-025; and

The exception land has been physically developed with residential uses and accessory structures. Six of the ten parcels contain a dwelling, one contains a storage structure, one is used in conjunction with an industrial use on adjacent property, one is undeveloped and owned by the county, and the other parcel is undeveloped and under the ownership of a parcel containing a dwelling. The dwellings and uses are accessible to either Brooklake Road or River Road and are not connected physically or through development to the surrounding EFU zoned lands. The residential development on the parcels has occurred and existed for the most part since the early 1900s. The development pattern that has occurred over time and prior to the establishment of EFU zoning in the area has resulted in the exception area no longer being available for resource/farm uses.

- (g) Other relevant factors.

No other relevant factors exist that have not been addressed in the applicable sections of the Rule provisions for exception areas.

- (7) Evidence submitted to support any committed exception shall at a minimum include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

The appropriate evidence as stipulated in this section of the rule are provided to illustrate information as to how the exception area addresses the factors set forth in the rule. A tax lot map showing the exception area, an aerial photo providing a snapshot in time of development within the exception area and surrounding areas, and a current zoning map are provided. The maps illustrate the development pattern and parcelization of land within and adjacent to the exception area.

- (8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exception:
- (a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and
 - (b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

The requirements under section (7) of this rule are provided since the exception area applies to a developed and committed area that is being adopted after the effective date of section (7) of the rule and Marion County has an acknowledged comprehensive land use plan and implementing regulations.

Finding:

The extent and location of existing development in the exception area due to the past and current use of the properties, results in the exception land being irrevocably committed to uses and development not conducive to

farm or resource uses under Goal 3. The exception area is committed to non-farm uses and is connected from a development standpoint to other exception lands and development within the Brooks-Hopmere Community Plan boundary.