



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: January 17, 2018

Department: Public Works Agenda Planning Date: Jan. 11, 2018 Time required: None

Audio/Visual aids

Contact: Joe Fennimore Phone: 503-566-4177

Department Head Signature:

TITLE Schedule final consideration to adopt an administrative ordinance granting Zone Change/ Comprehensive Plan Amendment (ZC/CP) 17-002/Video Acquisitions.

Issue, Description & Background The Marion County Hearings Officer held a duly noticed public hearing on this application on September 6, 2017, and on December 11, 2017, issued a report recommending the board approve the request. The board held a duly noticed public hearing on January 3, 2018, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the matter needs to be scheduled for final consideration and adoption.

Financial Impacts: None.

Impacts to Department & External Agencies None.

Options for Consideration: 1. Schedule final consideration and adoption of the ordinance at the next board session meeting. 2. Direct staff to prepare a modified ordinance. 3. Choose not to proceed with adopting an ordinance at this time.

Recommendation: Staff recommends the board schedule final consideration and adoption of the ordinance at the next board session meeting.

List of attachments: Ordinance

Presenter: Joe Fennimore

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Joe Fennimore - gfennimore@co.marion.or.us

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

In the Matter of the)	Case No. ZC/CP17-002
)	
Application of:)	Clerk's File No. 5737
)	
Video Acquisitions, Incorporated)	

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Video Acquisitions, Inc. to amend the comprehensive plan designation from Rural Residential to Industrial, and change the zone from AR (Acreage Residential) to IUC (Unincorporated Community Industrial) on a 0.615 acre parcel at 3511 Brooklake Road NE, Salem, Marion County, Oregon (T6S, R2W, S18BC, tax lot 1900).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on this application on September 6, 2017. On December 11, 2017, the Hearings Officer issued a report recommending the Board approve the request. The Board held a duly noticed public hearing on the application on January 3, 2018, and considered the Planning Division file, the Hearings Officer's recommendation, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

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

SECTION IV. Action

The requested Comprehensive Plan designation change from Rural Residential to Industrial is hereby **GRANTED**. The requested zone change from AR (Acreage Residential) to IUC (Unincorporated Community Industrial) zone is hereby **GRANTED**, subject to the conditions identified in Exhibit B, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is described in Exhibit C, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Zone Code 17.110.660 to reflect the new zoning.

SECTION V. Effective Date

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

SIGNED and FINALIZED this _____ day of _____, 2018, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

JUDICIAL NOTICE

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

EXHIBIT A

Findings of Fact and Conclusions of Law

1. The subject 0.615 acre property is designated Rural Residential in the Marion County Comprehensive Plan (MCCP) and zoned Acreage Residential (AR). The property is in the MCCP designated Brooks-Hopmere urban unincorporated community (UUC).
2. The subject property is on the north side of Brooklake Road NE near the Brooklake Road-River Road intersection. The parcel contains a metal storage building and a well that supplies water to the market on the adjacent CC (Community Commercial) zoned property to the east. The CC zoned property may also contain the septic drain field for the store. The CC zoned market property and the subject AR zoned property are under one ownership. Property to the northeast is zoned AR and contains a dwelling accessed from River Road. Properties north and west are zoned IUC and are in industrial use. South of the subject property, across Brooklake Road, are two small parcels with dwellings and a large farm parcel in an EFU (Exclusive Farm Use) zone.
3. Applicant asks to change the MCCP designation from Rural Residential to Industrial and the zoning from AR to IUC.
4. The Marion County Planning Division requested comments on the proposal from various governmental agencies.

Marion County Public Works (MCPW) Land Development and Engineering Permits (LDEP) section asked to include A below as a condition of the land use decision:

Condition A - Prior to issuance of building permits, dedicate sufficient right-of-way (R/W) to provide the public R/W half-width of 30 feet for a rural Major Collector road along the subject property Brooklake Road frontage.

Nexus is due to the anticipated addition of traffic to the public road, and to accommodate sufficient width for future road improvements and utilities. It appears an additional 5 feet is needed. However, the dedication shall be shown as the total (30 feet) versus differential.

The Marion County Building Inspection Division commented that a building permit is required for new construction.

The Marion County Tax Office provided comments regarding taxes on the subject property.

5. An exception to statewide planning goal 3, Agricultural Lands, was taken for the subject property when it was taken into the Brooks-Hopmere UUC. At that time the Residential designation and zoning were applied to the property. Applicant now asks to re-designate and rezone the property for industrial use.

6. OAR 660-004-0018 contains requirements for plan designation and zoning in exception areas:

In July 2000, the county adopted the Brooks-HopmERE Community Plan (BHCP), bringing the 1980 HopmERE-Brooks Interchange and Brooks exception areas into the Brooks-HopmERE UUC. The subject and other small parcels that were outside of original HopmERE exception area were also brought into the Brooks-HopmERE UUC under a new Goal 3, Agricultural Lands, built and committed exception, and were planned and zoned for residential and industrial use. The 2000 exception allowing the residential and industrial uses in the new exception area states:

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 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.

This excerpt from the exception document shows that the subject property was never in residential use (it contained and still contains a non-residential related storage building) and that transition to nonresidential designation and zoning over time was anticipated when the property was residentially designated. The 2000 exception to goal 3 recognized, justified and authorized industrial and residential uses in the exception area. Since industrial designation and zoning are allowed under the current exception, and expansion of industrial uses to the subject property was expected, the proposed industrial use of the subject property allows continuation of existing types of development in the exception area. OAR 660-004-0018(a) is met.

STATEWIDE PLANNING GOALS

7. Under the MCCP plan amendments section, comprehensive plan amendments must be consistent with statewide planning goals.

Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Notice and the hearings process before the hearings officer and BOC provide an opportunity for citizen involvement. Goal 1 is satisfied.

Goal 2: Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

Under this goal, each plan and related implementation measure shall be coordinated with the plans of affected governmental units. Affected governmental units are those local governments, state and federal agencies and special districts that have programs, land ownerships, or responsibilities within the area included in the plan. Implementation measures can be site specific, and applicant proposes a site-specific MCCP amendment. The Planning Division notified Marion County Fire District 1, Gervais School District, DLCD, the Brooks Sewer District and Marion County departments of the proposed comprehensive plan amendment. No concerns were expressed by any outside agency but MCPW requested roadway dedication as a condition of approval. The requested condition is discussed below and the BOC will consider the matter in its decision. Goal 2 is satisfied.

Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.

The subject property is in an existing exception area. Goal 3 does not apply.

Goal 4: Forest Lands. To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The subject and surrounding properties are not identified as forest lands and no forest use is apparent in the area. Goal 4 is not applicable.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. To protect natural resources and conserve scenic and historic areas and open spaces.

No MCCP-identified goal 5 resources are on or near the subject property. Goal 5 is not applicable.

Goal 6: Air, Water and Land Resources Quality. To maintain and improve the quality of the air, water and land resources of the state.

Industrial designation and IUC zoning allow only low impact "dry" industrial uses. Septic site review will be required at development to ensure the proposed use will not interfere with septic systems. The property is flat, reducing potential erosion and runoff issues. The proposed mini-storage use is fairly passive and will not result in any direct air emissions. In-place regulations will maintain the quality of air, water and land resources, and Goal 6 will be satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

The subject property is not in an M CCP identified geologic hazard or floodplain area. Goal 7 is not applicable.

Goal 8: Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

No goal 8 resources are identified on the subject site or implicated by this application. This goal is not applicable.

Goal 9: Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

OAR Chapter 660, Division 009 does not require or restrict planning for industrial and other employment uses outside an urban growth boundary (UGB), but counties must comply with the division requirements within UGBs. The subject property is not within a UGB. Goal 9 is not applicable.

Goal 10: Housing. To provide for the housing needs of citizens of this state.

OAR 660-008 defines standards for compliance with Goal 10 regarding adequate numbers of needed housing units and efficient use of buildable land within urban growth boundaries. The subject property is not within a UGB. Goal 10 does not apply.

Goal 11: Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The Brooks-Hopmore plan has been acknowledged to comply with goal 11. Compliance with the BHCP ensures that Goal 11 is satisfied.

Goal 12: Transportation. To provide and encourage a safe, convenient and economic transportation system.

The subject property fronts Brooklake Road NE, a Marion County Rural Transportation System Plan (RTSP) identified major collector road. The BHCP transportation planning section references a 1999 update of the Brooklake Interchange Management Plan (BIMP) recognizing that full build out of the BHCP area, including the Brooks interchange and the large NORPAC property east of the freeway could make the major intersections within the plan area functionally unacceptable by 2015. In the BHCP process, the county considered adding some properties to the area that could add nearly 4,000 daily vehicle trips, but found that adding 11 other properties would result in little or no traffic increase in the area. The county noted that intensifying the use of any parcels should be approached with caution, and added a requirement that land use changes resulting in more than minimal added traffic trips would require submission of a Traffic Impact Analysis (TIA) and mitigation improvements.

The 2013 RSTP appendix B inventory update (not yet adopted), shows Brooklake Road, from Wheatland Road to River Road, the segment fronted by the subject property, operating at level of service (LOS) B, and from River Road to Huff Avenue at LOS C, from Huff Avenue to I-5 right-of-way (ROW) west at LOS D, I-5 ROW east to the Southern Pacific Railroad Crossing at LOS C, from the railroad crossing to Highway 99E at LOS D, and from Highway 99E to its eastern terminus operating at LOS A. In rural areas, the county considers LOS D or better as acceptable for signalized and four-way stop intersections and LOS E or better for other unsignalized intersections.

Applicant's traffic engineer looked at the proposed use and assumed a 12,000 square foot mini-storage facility on a 0.61 acre property would generate 2.5 trips per day per 1,000 square feet, or 30 additional trips per day. The engineer found residential use of the property would generate 9.52 traffic trips per day, resulting in a 20 trip per day net increase in daily traffic trips. The engineer stated this would, at most, represent a 0.195% increase of daily road volume, and would not significantly affect the Brooklake Road-River Road intersection. Applicant points out that under MCC 17.164.060(D), the IUC zone 40% lot coverage limit for buildings would, at most, allow 10,716 square feet of building development rather than 12,000 square feet. At 10,716 square feet, maximum trips would be 26.79 per day, reducing net trips to 17.25 rather than 20, and reducing the impact of the proposed use.

MCPW asked to include a condition of approval requiring applicant to dedicate approximately five feet of additional right-of-way along the subject property's Brooklake Road frontage. PW explained that the nexus is due to the anticipated addition of traffic to the public road, and to accommodate sufficient width for future road improvements and utilities.

PW's comments express no concern about the proposal significantly affecting Brooklake Road's major collector functional classification or standards implementing the functional classification of the road. Nor do the comments show concern about significant degradation of the performance of Brooklake Road, and PW does not recommend denial of the application if the condition is not imposed.

Traffic impacts in the Brooklake corridor are an area of concern, but the BHCP recognizes that some proposals will have much less impact than others. The subject property is small, limited by lot coverage restrictions, and is in a high functioning area of Brooklake Road. The proposed use will generate minimal additional traffic. It is more likely than not that the proposal will not *significantly* affect existing transportation facilities by allowing uses or levels of development inconsistent with the road's functional classification that would degrade its performance standards, worsen its performance, or otherwise not meet the performance standards. Goal 12 is satisfied.

Goal 13: Energy Conservation. To conserve energy.

The proposed use is more passive and less energy intensive than traditional manufacturing industries. Goal 13 is satisfied.

Goal 14: Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The Brooks-Hopmere community plan was developed under OAR 660, division 22 that interprets goals 11 and 14 in unincorporated communities. The BHCP was acknowledged to comply with goal 14. Goal 14 is satisfied.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The subject site is not within the Willamette River Greenway, or near any ocean or coastal related resources. These goals do not apply.

Applicants' proposal is consistent with statewide planning goals.

COMPREHENSIVE PLAN AMENDMENT

8. The M CCP contains no specific plan amendment review criteria, but an amendment must be consistent with applicable M CCP policies. The BHCP (an adopted part of the M CCP) also contains policies that must be considered.

BHCP Land Use and Transportation Policies:

1. *County plans and land use regulations shall ensure that new uses authorized within the Brooks-Hopmere Community do not adversely affect agricultural uses in the surrounding EFU areas.*

The subject property is well insulated from farm properties to its north, east and west. EFU zoned property is 50 feet to the south across Brooklake Road. Two small parcels are across from the subject property and are surrounded by a large farm parcel. The small parcel directly opposite is owned by applicant and appears to be in residential use. Under the acknowledged BHCP, the size and nature of permitted uses within the BHCP are restricted to insure continued compatibility with surrounding uses. Consistent with this, the subject site's small size and lot coverage restrictions ensure any use will be limited and have little off-site impact. The dry nature of the use ensures no interference with agricultural water use. The proposal will not interfere with farm uses in the area. This policy is met.

2. *New development shall be reviewed to ensure that it will not result in the capacity of the transportation system within the community being exceeded.*

According to the RSTP, roadway capacity describes the ability of a transportation facility to carry a certain number of vehicles or people. It allows engineers and planners to determine what potential improvements will likely become necessary. The capacity of a roadway or intersection is specific to that location and traffic characteristics. Level-Of-Service (LOS) is a concept used to measure the quality of flow on or through a facility. It attempts to grade the amount of delay a motorist must experience while traveling through an intersection or the level of congestion

on a segment of roadway. LOS is designated by a letter grade from A to F where LOS A represents free-flowing traffic with little or no delay, and LOS F represents severe congestion.

The subject property fronts Brooklake Road NE between Wheatland Road NE and River Road NE. This segment of Brooklake Road operates at LOS B according to the 2013 RSTP update. Though the 2013 update is not yet adopted, its appendix B table offers the latest LOS information available. At LOS B, speeds of 55 mph or slightly higher are expected on level terrain. Passing opportunities needed to maintain desired speeds are still available although not as often as LOS A. Some platoons of three or more are observed. Drivers spend up to 45 percent of the time following slower vehicles. Remaining segments of Brooklake Road within the Brooks-HopmERE UUC to the east operate at LOS C and D to Highway 99E, and LOS A east of Highway 99E.

Traffic is clearly a concern in the Brooklake corridor, but applicant demonstrated that the proposed comprehensive plan amendment and zone change will generate a small amount of traffic that will have little effect on Brooklake Road's carrying capacity. Although MCPW asks for roadway dedication to allow for future roadway improvements, PW did not provide any capacity-related argument or the need for the dedication, nor was a TIA requested, again suggesting no capacity issues arise as a result of this proposal. It is more likely than not that the proposal will not result in the capacity of the transportation system within the community being exceeded. This policy is met.

3. *New development shall be limited to prevent excess demand on the Brooks Community Sewer System.*

The proposed use will not require water or sewer services, and the BHCP restricts new uses to dry uses or requires new uses to be reviewed for sewer capacity before it can be established. This policy is met.

4. *No parcels will be rezoned to multifamily in the Brooks-HopmERE Community unless the applicant can demonstrate there will be no unacceptable adverse impact to the transportation system.*

No multifamily designation or zoning is proposed and none is allowed in the IUC zone. This policy is met.

5. *Marion County will adopt performance based criteria and procedures to create a trip allocation bank to provide flexibility in the development of the Norpac site, while still ensuring adequate performance of the transportation system.*

The NORPAC site is east of I-5 and not near the subject property. This policy does not apply.

6. *Parcels subject to a Limited Use overlay zone designation that was based on a reasons exception to statewide Goal 3 prior to adoption of the Brooks-HopmERE Community Plan shall continue to be subject to the limitations of the overlay zone.*

This property was not subject to a limited use overlay zone when excepted from farm use. This policy does not apply.

BHCP Utilities Policies:

1. *New uses or expansion of existing uses requiring land use approval in Brooks-Hopmere shall be approved only upon confirmation from the Brooks Community Sewer District that it can provide sewer services to the property, unless an on-site system has been approved by Marion County or the Oregon Department of Environmental Quality.*

The proposal requires no water or sewer services. This policy is met.

2. *Industrial uses that require water as part of their industrial or manufacturing processes shall be required to demonstrate a capability for on-site sewage disposal.*

No manufacturing is proposed for the site. The proposed use will not require water or sewer services. The BHCP restricts new uses to dry uses or requires new uses to be reviewed for sewer capacity before it can be established. This policy is met.

3. *Marion County will encourage and support the development of a community water system serving all or a portion of the Brooks-Hopmere community.*

This policy is directed to Marion County and is not applicable.

9. Marion County Comprehensive Plan Polices:

General Rural Development Policy 2. "Strip-type" commercial or residential development along roads in rural areas shall be discouraged.

The subject property is in the Brooks-Hopmere UUC and its development is anticipated in the BHCP. General rural development policy 2 is satisfied.

General Rural Development Policy 3. 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.

The Brooks-Hopmere UUC is acknowledged under OAR 660-022. The zoning that applies in the community ensures industrial, commercial and public uses are suited to the location of the community, compatible with existing rural developments and agricultural goals and policies. General rural development policy 3 is satisfied.

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

The proposed use of the property is industrial, not commercial. Rural development policy 1 does not apply.

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

This proposal does not expand the Brooks-Hopmere UUC boundaries. Rural development policy 2 does not apply.

Rural development policy 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.

The Brooks sewer service district boundaries are not being changed or expanded by this proposal. Rural development policy 3 does not apply.

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

The proposed use does not rely on water or sewer services. Rural development policy 4 does not apply.

Rural development policy 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.

The subject property is not within the Brooks Interchange area. Rural development policy 5 does not apply.

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

The IUC zone was acknowledged as appropriate to implement the rural communities rule in the Brooks-Hopmere UUC. It contains a set of uses limited in size and nature to ensure the property remains compatible with surrounding uses. The zoning proposed to be applied to the property ensures that rural development policy 6 is satisfied.

The remaining rural development policies address multifamily housing and interchange issues and are not applicable.

Rural Services Policy 1: The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.

The proposed plan designation and zone change will not require new rural services. No additional water or wastewater disposal use is proposed for or required on the site. Sheriff and fire/life safety services are in place. Electric and telephone services are already available in the area. Brooklake Road NE is an M CCP-identified major collector road in fair condition and operating at LOS B. The proposed use will add negligible traffic to Brooklake Road. Rural services policy 1 is met.

Rural Services Policy 2: It is the intent of Marion County to maintain the rural character of the areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.

The boundaries and development intensity of the Brooks-Hopmere UUC were planned for and set by the county with adoption of the BHCP. Rural services policy 2 is met.

Rural Services Policy 3: Only those facilities and services that are necessary to accommodate planned rural land uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with maintaining the rural density and character of the area.

The Brooks-Hopmere UUC boundaries and MCC chapter 17.164 for the IUC zone were acknowledged as appropriate. Service levels were considered and provisions applied that ensure appropriate levels of development will not result in an urban density. Rural services policy 3 is met.

Rural Services Policy 4: The sizing of public or private service facilities shall be based on maintaining the rural character of the area. Systems that cannot be cost effective without exceeding the rural densities specified in this Plan shall not be approved. The County shall coordinate with private utilities to ensure that rural development can be serviced efficiently.

The proposed comprehensive plan amendment and zone change will not result in a new need for water or sewer services. Rural services policy 4 is met.

All applicable MCCP policies are met.

ZONE CHANGE

10. Under MCC 17.123.060, approval of a zone change application or initiated zone change shall include findings that the change meets the following criteria:
 - A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and
 - 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.
11. Applicable MCCP (including BHCP) policies were evaluated above and found to be met. If the MCCP amendment re-designating the property from Rural Residential to

Industrial is approved, the proposed IUC zone would be consistent with the Industrial plan designation and MCC 17.123.060(A) would be satisfied.

12. Most surrounding lands are within the Brooks-Hopmere UCC which was adopted and the designations and zoning acknowledged as appropriate for the area. The subject property is between an industrial zoned property to the west and a commercially zoned property to the east. Another industrially zoned parcel borders the subject property to the north. The IUC zone is compatible with these industrial and commercial zones. The subject property also shares a portion of its eastern boundary with the rear portion of an AR zoned parcel in residential use that also fronts River Road. Land across Brooklake Road is zoned EFU and is in farm and residential use. The proposed use is limited by the size of the subject property, a 40% building limitation, and the dry use requirement. Additionally, under MCC 17.164.050, in any zone change to an IUC zone where the territory proposed to be changed abuts upon a residential zone, conditions to preserve neighborhood qualities may be imposed by the governing body. These requirements also act to ensure the proposed zone change is appropriate considering the surrounding land uses and the density and pattern of development in the area. As found in item 17 below and incorporated here, MCC 17.164.050 conditions will be imposed. If the comprehensive plan amendment is approved, and with MCC 17.164.050 conditions imposed below, IUC zoning of the subject property would be appropriate considering area uses, density and development in the area. MCC 17.123.060(B) will be satisfied.

13. Electric, telephone and other utilities and services are available in the area. No public water or sewer services are required. Brooklake Road NE is in fair condition and operates at a level of service B at the subject property. MCPW asked to include a condition of approval requiring applicant to dedicate approximately five feet of additional right-of-way along the subject property's 115 foot Brooklake Road frontage (575 square feet). PW explained that the nexus is due to the anticipated addition of traffic to the public road, and to accommodate sufficient width for future road improvements and utilities.

Applicant objects to the proposed condition of approval. Applicant provided information from a traffic engineer estimating only a 20 trip per day net increase in traffic trips. The engineer also found, based on 2015 traffic counts that, at most, the proposal would raise traffic volumes only 0.195%, and would not significantly affect the daily volume. The engineer's estimate of 20 additional trips per day was based on a 12,000 square foot mini-storage facility. Applicant points out that the IUC zone allows only 40% building coverage, or a maximum 10,716 square foot facility, and only a 17.27 net trip increase per day; a lesser impact than the engineer's estimate.

In this instance there is not enough information in the record to make the necessary individualized findings that the proposed condition to require right-of-way dedication is warranted. Even without right-of-way dedication, there is an adequate transportation network in place to serve the subject zone change. And, as shown above other public facilities and services are available or will be put in place. MCC 17.123.060(C) is satisfied.

14. The IUC zone is only allowed in MCCP identified unincorporated communities. According to the Marion County Rural Unincorporated Communities Findings and

Analysis adopted December 13, 2000, IUC zoning is allowed only in Brooks-Hopmere, Mehema, Monitor, Quinaby and Shaw. Monitor, Quinaby and Shaw allow only existing uses in their IUC zones. Mehema allows a wider variety of IUC uses but it is many miles distant on Highway 22 in the mid-Santiam Canyon. No other suitable properties are within a reasonable distance from the subject property, and none are reasonably available alternatives. With an M CCP amendment approval, MCC 17.123.060(D) will be satisfied.

15. The IUC zone is the only zone allowed under the Industrial designation in the Brooks-Hopmere UUC and is the UUC's least intensive zone. MCC 17.123.060(E) is not applicable.

The zone change criteria are satisfied.

16. Under MCC 17.164.050, in any zone change or reclassification of property to an IUC zone where the territory proposed to be changed abuts upon a residential zone, or abuts upon a street or alley which would be the boundary line between the proposed IUC zone and the residential zone, conditions to preserve neighborhood qualities may be imposed by the governing body relating to:

- A. *Size and location of signs;*
- B. *Size, type and location of outdoor lighting;*
- C. *Landscaped areas;*
- D. *Screening;*
- E. *Building setbacks;*
- F. *Ingress and egress for industrial uses.*

The subject property abuts a residential property to the east. Applicant accepted MCC 17.164.050 conditions by stating that any sign on the property would be on Brooklake Road, not visible to the neighboring residential property; lighting will be designed to avoid reflection on the residential property; landscaping will be maintained adjacent to the residential property and provide adequate screening; no windows or doorways of a building developed on the IUC zoned property will face the residential property to the east; any building on the IUC property will maintain the required setback of 10 feet; and access to the property will be from Brooklake Road. These are the types of conditions allowed under MCC 17.123.070, and are reasonably related to development allowed in the IUC zone and the development proposed on the subject property, will serve the public purpose of mitigating the negative impacts on the adjacent residential property, and are based on BOC adopted MCC provisions. With these imposed as conditions of approval, the proposal will not affect the residential property to the east.

EXHIBIT B

The Marion County Board of Commissioners adopts the following conditions in ZC/CP17-002/Video Acquisitions, Incorporated.

CONDITIONS OF APPROVAL:

Pursuant to the Marion County Code 17.123.070, the following conditions apply to the IUC (Unincorporated Community Industrial) zoning granted in this action. These conditions are reasonably related to the specific development proposed, will serve the public interest of reducing land use conflicts, and are based upon standards adopted by the County. The IUC zoning significantly intensifies the use of the land. The conditions are necessary for the public health, safety and welfare.

1. Any sign on the property shall be placed so that it is visible from the Brooklake Road frontage.
2. Lighting shall be directed away from the neighboring residential property
3. Landscaping (a six foot fence, wall or hedge) shall be provided and maintained adjacent to the residential property and shall provide screening from the industrial use.
4. The portion of the building located along the boundary of the residential property to the east shall have no windows or doorways facing the residential property.
5. Buildings on the subject property shall comply with the setback requirements and property development standards of the zone.
6. Access to the property shall be from Brooklake Road.

EXHIBIT C

The following described property is rezoned from an AR (ACREAGE RESIDENTIAL) to an IUC (UNINCORPORATED COMMUNITY INDUSTRIAL) zone.
ZC/CP 17-002/VIDEO ACQUISITIONS, INC.

