



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: July 19, 2017

Department: Public Works Agenda Planning Date: July 13, 2017 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) 17-001/Sharabarin.

Issue, Description & Background The Marion County Hearings Officer held a duly noticed public hearing on this application on March 22, and on May 18, 2017, issued a report recommending the board approve the request if satisfactory additional information is provided. The board held a duly noticed public hearing on June 28, 2017, 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. 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 of commissioners schedule final consideration and adoption of the ordinance at the next board session.

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/CP17-001
Application of:)	
Vasily and Marina Sharabarin)	Clerk's File No. 5742

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 Vasily and Marina Sharabarin to amend the comprehensive plan designation from Primary Agriculture to Rural Residential, and change the zone from EFU (EXCLUSIVE FARM USE) to AR-10 (ACREAGE RESIDENTIAL-TEN ACRE MINIMUM) and to take an exception to Statewide Planning Goal 3, Agricultural Lands, on a 7.43-acre parcel in the 11,700 block of Carl Road NE, Woodburn, Marion County, Oregon (T5S, R1W, S4C, tax lot 2000).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on this application on March 22, 2017. On May 18, 2017, the Hearings Officer issued a report recommending the Board approve the request if satisfactory additional evidence is provided. The Board held a duly noticed public hearing on the application on June 28, 2017, 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 Primary Agriculture to Rural Residential is hereby **GRANTED**. The requested zone change from EFU (Exclusive Farm Use) to AR-10 (Acreage Residential – 10 Acre Minimum) zone is hereby **GRANTED** subject to THE condition 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 _____, 2017, 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 7.43-acre property is designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and is zoned Exclusive Farm Use (EFU).
2. The subject property is on the east side of Highway 99E in the northeast corner of the Highway 99E - Carl Road intersection. The property was the subject of administrative review case AR 09-18 and is considered a legally created parcel for land use purposes. The Soil Survey for Marion County Area, Oregon, shows 100% of the soils on the property are high-value soils. Applicants submitted an individualized soil analysis.
3. Property to the southwest across Highway 99E and cater corner to the subject property is within the Woodburn city limits and urban growth boundary (UGB). From an aerial photograph in the record, the property appears to be in industrial or commercial use. Properties north of the Woodburn UGB are zoned EFU and consist of small parcels in residential use and larger farmed parcels. Directly north of the subject property are small parcels in residential use. A dual-zoned AR/EFU (Acreage Residential/Exclusive Farm Use) parcel abuts the subject property to the east with an EFU portion of it extending north. A small EFU zoned strip of the parcel directly borders the east property line of the subject property. The strip appears to be in use to access the mobile home park on the AR zoned portion of the parcel. EFU zoned property east of the dual zoned property is in farm use. An AR zoned mobile home subdivision is southeast of the subject property across Carl Road. Three small EFU zoned properties in residential use are west of the subdivision and south of the south eastern portion of the subject property. A large AR zoned mobile home park abuts Highway 99E south of the southwest portion of the subject property.
4. The subject property is designated and zoned for resource use and is subject to statewide planning goal 3, Agricultural Lands. Applicants seek a goal 3 exception for residential designation and zoning of the property.

GOAL 3 EXCEPTION - OAR 660-004-0028 Irrevocably Committed

5. **Exception area characteristics.** The subject 7.43-acre lot at the northeast corner of the Highway 99E - Carl Road NE intersection is the proposed exception area. The property is relatively flat and surrounded by low barbed-wire fencing except at the two entrances on Carl Road NE. The property has a well and electrical service. Applicants state the property is burdened by utility easements serving adjoining properties, including a 10' stormwater easement running across the northern boundary of the subject property that takes water from the mobile home park to the east to a public stormwater connection at Highway 99E. Applicants' farm stand once stood in a paved and graveled area in the southwest corner of the subject property.

The soil survey of Marion County Area, Oregon shows 100% of the subject property is high value soils. Applicants engaged a certified soil classifier to conduct an investigation of the subject property. In May 2016, Red Hills Soils certified soils classifier Andy Gallagher identified three soil types and a paved and graveled area on the subject property.

The parcel, excluding the paved and gravel area is made up entirely of high value farm soils, is planted to cane berries and is specially assessed for farm use.

6. **Adjacent land characteristics.** Given the roads and numerous small parcels around the property, adjacent land is broadly interpreted here to include abutting and nearby lands. Highway 99E, adjacent west of the subject property, is a five lane arterial highway. East of Highway 99E and north of the subject parcel is a cluster of small EFU zoned parcels with homes. Woodburn Mobile Estates, a 30-space mobile home park is on the AR portion east of the subject property. The EFU portions of the property are not in farm use and include a small strip on the west side of the parcel next to the subject property used to access the mobile home park. The subject property abuts Carl road to the south, and property south of the road contains a manufactured home subdivision zoned AR and small parcels zoned EFU and containing residences.
7. **Relationship between exception area and adjacent lands.** The subject property is in an area of smaller, mostly residential parcels that are not in farm use. The area is flat with no apparent topographic restraints. Restrictions are largely human-made. Highway 99E, a formidable structure, is heavily traveled and has no signal at its Carl Road intersection. The highway is a physical and functional barrier to farming the subject property in conjunction with farmland to the west. Small parcels mostly in separate ownership and manufactured home developments have stranded the subject property and preclude its farm uses from expanding onto neighboring properties.

The predominant soils on subject property require good drainage and surrounding impervious surfaces (roadways, structures, etc.) hinder optimal drainage of the subject property, hindering the types of crops that can be grown on the subject property. The dominating dense residential development causes problems on the subject property beyond drainage issues. It is not uncommon for the neighbors in the adjacent mobile home parks and subdivision to use the subject property to park overflow cars or machinery during construction projects or road work. In January 2017, applicants found septic pump trucks and crews using the subject property as a staging area for servicing a nearby manufactured home subdivision.

8. **Other relevant factors under OAR 660-004-0028(6).**

Existing adjacent uses. Existing adjacent uses are addressed in item 7 above and incorporated here.

Existing public facilities and services. Carl Road and Highway 99E are directly south and west of the subject property. Highway 99E is a state controlled five-lane arterial roadway in this area. Carl Road is two lanes with shoulders flaring out at the Highway 99E intersection. Proposed AR-10 (Acreage Residential - 10 Acre Minimum) zoning adds only one homesite to the area for minimal impact on public roads. Water and wastewater facilities will be provided on site and will not require extension of public services. Electric and telephone services are already available in the area. Fire and public safety services are provided by the Woodburn Fire District and the Marion County Sheriff's Office. A drainage easement follows the north property line of the subject property, carrying stormwater from Woodburn Mobile Estates to join a larger drainage system along Highway 99E.

Parcel size and ownership patterns of exception area and adjacent lands. The subject property and parcels to the north, east and west (except the area directly west at the Highway 99E - Goudy Gardens Road intersection) are part of the 1913 Goudy Gardens subdivision. The Goudy Gardens plat map shows 20 lots ranging in size from 0.99 acre (lot 1) to 44 acres (lot 15). Most were 10-acre lots but many

Goudy Gardens lots have been re-divided over the years into much smaller parcels. Most small lots are in separate ownership and not in farm use. Parcels to the south were not in the Goudy Gardens subdivision and it is unclear how many were created but most are in residential use. The manufactured home parks and subdivision were all developed in the 1970s.

Neighborhood and regional characteristics. Neighborhood characteristics have been explained above. Applicants' exhibit H is a more regional overview of the area between the urban areas in the cities of Woodburn and Hubbard. The only AR zoned properties in the area are the three manufactured home developments here and land just south of the Hubbard UGB. The remaining area is largely a blanket of EFU zoned land in farm use.

Natural or man-made features or other impediments separating the exception area from adjacent resource land. The subject property is the only land in farm use at the Highway 99E - Carl Road intersection node. The combination of roadways, dense manufactured home park and subdivision developments, and small EFU zoned parcels in rural residential use encapsulate the subject property and isolate it from other land in farm use.

Physical development. The subject property contains a paved and graveled area in its southwest corner. The property is served by electricity and a well and there is a 10' wide stormwater easement along the northern boundary line.

Additional factors. In a staff memorandum for a 1989 zone change/ comprehensive plan amendment for a then 5.7-acre parcel across Carl Road from the subject property, the subject property is described as an EFU zoned property that is not in farm use, indicating that the subject parcel may have limitations for successful farm use. The memorandum, while not recommending commercial use of the property, found that the property was irrevocably committed to nonfarm use. That parcel, at almost six acres is similarly sized as the subject 7.43-acre property, and is similarly situated in its proximity to dense residential development that forecloses combining the property with other farmland to enhance its viability for farm use.

9. When determining whether uses or activities allowed by an applicable goal are impracticable, local governments do not need to demonstrate that every use allowed by the applicable goal is impossible; just that farm use as defined in ORS 215.203, propagation or harvesting of a forest product as specified in OAR 660-033-0120, and forest operations or forest practices as specified in OAR 660-006-0025(2)(a) are impracticable.

"The impracticability standard is a demanding one." *Friends of Linn County v. Linn County*, 41 Or LUBA 358, 363 (2002). When determining whether uses specified in the rule are practicable, the county cannot limit its analysis to commercial-level operations. "The test under the rule is not whether the property is capable of supporting 'commercial' levels of agriculture." *Gordon v. Polk County*, 54 Or LUBA 351 (2007), citing to *Lovinger v. Lane County*, 36 Or LUBA 1, 18 (1999). And, in *Lovinger*, at 19, the Land Use Board of Appeals stated, "we doubt that there is any definite or broadly applicable 'threshold' in determining whether farm uses are impracticable under OAR 660-004-0028 and ORS 215.203(2)(a). As intervenors point out elsewhere, a determination whether farm uses are impracticable under OAR 660-004-0028 and ORS 215.203(2)(a) is a matter of case-by-case analysis, after consideration of all the factors set forth in the rule."

10. *Farm use.* Assessor's office information puts the subject property at 7.43 acres. The soil scientist's report shows only 6.0 acres of viable farm soils on the property. Six acres is small for a farm parcel and there is no way to expand farming operations onto surrounding properties because the subject property is boxed in by small EFU parcels in separate ownerships that are in residential use, by high density manufactured home developments, and by roadway frontage. Department of Public Works seeks (and applicants agree to provide) additional right-of-way dedication along Carl Road that was required as a condition of approval in case AR 09-018 but was never dedicated. Additional right-of-way dedication would likely reduce the amount of useable farmland on the site. Lack of on-site management hinders the property's agricultural use. Trespass is an issue on the property given its proximity to dense residential development and Highway 99E. It is not uncommon to find litter and unknown cars parked on the property. Applicants explain that driveways in the Chateau Mobile Village mobile home park to the south are narrow and service and emergency vehicles often use the subject property for parking when going to the mobile home park. Applicants also cite lack of on site management (and the property's small size) as a hindrance to using the property for livestock operations. Applicants state that using the property to prepare, store and dispose of products or by-products raised on the land is also impracticable without on site management because they could not secure their farm stand products on the property.

The property's soils are an impediment to farm use because they require optimal drainage but because the property is surrounded by impervious surfaces (roadways, driveways, rooftops, etc.) and the on-site water has nowhere to go.

Applicants have shown impediments to farm use of the subject property and the record shows the property has not always been in farm use. The property is now planted to cane berries, is in resource deferral, and is producing farm income.

Applicants calculated that the existing farm produces an annual income of approximately \$31,850. They calculate a cost of \$7,300 per acre to prepare, maintain, treat, harvest, and transport their berries each year for an annual cost of \$51,100. Based on these figures the farm produces an annual loss of \$19,000 per year. Over time, with no area to expand the operation and no reasonable alternative crops, negative income shows farm use of the property is impracticable because of on-site conditions and surrounding development.

11. *Propagation or harvesting of a forest product.* The property is not treed and is not in an area where forest products are grown and harvested. The property's soils are not in woodland suitability groupings. Timber and woodlot use of the parcel is not practicable.
12. *Forest operations/forest practices.* Under OAR 660-006-0025(2), forest operations and forest practices include, but are not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash. Timber generation and harvest are not practicable on the subject property so forestry management, operations, and practices are also impracticable.
13. The Board finds that based on the evidence in the record the subject property is irrevocably committed to uses not allowed by goal 3 because existing adjacent uses and other relevant factors make farm use of the subject property impracticable.

PLANNING AND ZONING FOR EXCEPTION AREAS - OAR 660-004-0018

14. The subject property must be evaluated under OAR 660-004-0018, planning and zoning for exception areas. Statewide planning goals are evaluated below. No public water or sewer services are currently provided or needed to support the one additional dwelling site that would result from AR-10 zoning. Highway 99E is a state controlled highway. Carl Road is a local road in good condition operating at a level of service A. Police and fire/life safety services are provided by the Marion County Sheriff's Office and Woodburn Fire District. No increases in public services are anticipated. Applicants are asking for one home on the subject 7.43 acres, technically changing the exception area density. OAR 660-004-0018(2)(b) is evaluated.
15. The subject site is outside of a city UGB, and is currently non-urban agricultural land. With the goal 3 exception, the land will not be zoned as agricultural, forest, or open space land. Definition (a) is not met by the proposal. The property is not in an unincorporated community.

The subject property is in an area of mixed dense urban-like manufactured home settlements and acreage homesites. With the goal 3 exception, an acreage homesite with no or minimal public services would result.

The site is near the Woodburn UGB, however, in the late 1990s, the city of Woodburn began the periodic review process to update its comprehensive plan and in 2005 amended its urban growth boundary (UGB). The 2005 expansion brought the Chateau Mobile Village into the city's UGB. The city submitted the amendment to the Land Conservation and Development Commission (LCDC) for review. LCDC approved the city's UGB amendment but the decision was appealed to the Oregon Court of Appeals. The court of appeals reversed LCDC's order and remanded the case to LCDC for reconsideration. LCDC completed reconsideration and issued a new order approving the city's UGB expansion. That order was appealed to the court of appeals where it was again reversed and remanded to LCDC for reconsideration. In 2015, Woodburn amended its UGB expansion and excluded the Chateau Mobile Village property from the UGB and restricted UGB expansion in the area east of Highway 99 for 20 years. With AR-10 zoning, the land would not be converted to urban land under goal 14. Definition (b) is met. The property will be maintained as rural land as defined in statewide planning goals. OAR 660-004-0018(2)(b)(A) is met.

This proposal will allow one additional dwelling in a nearly built out rural area. No additional public services will be required. This proposal will not commit adjacent or nearby properties to urban uses. OAR 660-004-0018(2)(b)(B) is met.

The subject property is isolated and insulated from other agricultural properties. Adding one home to this site is compatible with adjacent and nearby resource uses. OAR 660-004-0018(2)(b)(C) is met.

OAR 660-004-0018(2)(b) is satisfied by Rural Residential zoning and the AR-10 zone.

APPLICATION OF GOAL 14 TO RURAL RESIDENTIAL AREAS - OAR 660-004-0040

16. Under OAR 660-004-0040(7) (i), for rural residential areas designated after October 4, 2000, the affected county shall either:
 - (A) Require that any new lot or parcel have an area of at least ten acres, or

- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the applicable requirements for an exception to Goal 14 in OAR chapter 660, division 14. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

No new lot is being created and applicants are requesting AR-10 zoning. OAR 660-004-0040 is satisfied.

GOAL 14 EXCEPTION

17. Applicants seek AR-10 zoning on the subject 7.43-acre property. The Marion County BOC allowed AR-10 zoning on other less-than-10-acre parcels and found no goal 14 exception needed. That same interpretation applies in this case, with approval of the proposed plan amendment and applying the AR-10 zone, no goal 14 exception is needed in this case.

STATEWIDE PLANNING GOALS

18. Under the M CCP 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.

Applicants propose a site-specific M CCP amendment. The Planning Division notified the Woodburn Fire District, North Marion School District, DLCD, Oregon Highway District and various county departments of the proposed comprehensive plan amendment. Marion County DPW LDEP comments are set out above for BOC consideration. DPW requested additional right-of-way dedication as a condition of approval. Applicants agreed, noting that the right-of-way was not provided by applicants as required in a previous case.

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

Applicants' request for a goal 3 exception is discussed above, and if taken, goal 3 will not be applicable.

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 site was not identified as potential forest land during the M CCP adoption process and on-site soils are not in woodland suitability groupings. Goal 4 does not apply.

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

This goal is concerned with M CCP-identified goal 5 resources. No M CCP-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.

The proposed residential use would allow only one additional dwelling. Normal residential use would not emit excessive noise or airborne particulates. The property is flat, reducing potential erosion and runoff issues. Septic permits are required for on-site sewage disposal. In-place regulations will maintain the quality of air, water and land resources. Goal 6 is 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.

This goal addresses commercial and industrial development, primarily in urban areas. OAR chapter 660, Division 009 applies only to comprehensive planning for areas within urban growth boundaries. Goal 9 is not applicable.

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

OAR 660-008-0000 is intended to define standards for compliance with Goal 10. OAR 660-008 deals with providing an adequate number of needed housing units, and efficient use of buildable land within urban growth boundaries. The subject property is not within an urban growth boundary. 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.

Electric and telephone utilities are available in the area. No public water and sewer services are required. Little traffic will be generated by the proposed use. Goal 11 is satisfied.

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

Under OAR 660-012-0060(1), if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP [transportation system plan]. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The subject property fronts Carl Road NE, an RTSP-identified local road in good condition operating at level of service A. Residential households generate an estimated ten traffic trips per day. Applicants do not propose changing nor will ten vehicle trips per day change the functional classification of Carl Road or standards implementing the local road classification. Marion County DPW commented on the application but expressed no concern about the proposal significantly affecting existing transportation facilities by allowing uses or levels of development inconsistent with Carl Road's functional classification that would degrade its performance standards, worsen its performance, or otherwise not meet the performance standards. Highway 99E is a state controlled highway. The Highway Department commented that no access to the property is allowed from the state highway. Goal 12 is satisfied.

Goal 13: Energy Conservation. To conserve energy.

One additional homesite will not significantly increase energy consumption. 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.

Applicants propose AR-10 zoning consistent with goal 14.

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.

With an exception to goal 3, applicants' proposal will be consistent with statewide planning goals.

MCCP AMENDMENT

19. The MCCP contains no specific plan amendment review criteria, but an amendment must be consistent with applicable MCCP policies discussed below.

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

The subject property is in a more nodal-type development area than a strip-type development area. The subject property is already surrounded by residential development and will not add to a perception of strip development in the area. General rural development policy 2 is satisfied.

Rural Residential Policy 5. Marion County considers rural living a distinct type of residential experience. The rural lifestyle involves a sacrifice of many of the conveniences associated with urban residences and the acceptance of lower levels of governmental services, narrow roads and the noises, smells and hazards associated with rural living and accepted farm and forest management practices. Marion County finds that it is financially difficult, not cost effective and inconsistent with maintaining a rural lifestyle for government to reduce or eliminate the inconveniences caused by lower levels of public services or farming and forest management practices. When residences are allowed in or near farm or forest lands, the owners shall be required to agree to filing of a declaratory statement in the chain of title that explains the County's policy giving preference to farm and forest uses in designated resource lands.

Requiring applicants to file a declaratory statement in the Marion County deed records acknowledging and accepting farm and forest uses of surrounding properties at time of building permits will meet this policy.

Rural Residential Policy 6. Where designated rural residential lands are adjacent to lands protected for resource use, a reasonable dwelling setback from the resource land shall be required, and any other means used, to minimize the potential for conflicts between accepted resource management practices and rural residents.

Under MCC 17.128.050(A), dwellings on AR zoned properties shall be set back 100' from resource-zoned property. At 7.43 acres, the subject property can be developed in accordance with this standard, satisfying rural residential policy 6.

Rural Residential Policy 7. Lands available for rural residential use shall be those areas developed or committed to residential use or significant areas unsuitable for resource use located in reasonable proximity to a major employment center.

The subject site is in an area of AR zoning and most properties in the area are in residential use. With the goal 3 exception, the subject property will be declared committed to residential use. The property is near the city of Woodburn and with its adjacent highway access, is reasonably accessible to other employment centers. Rural residential policy 7 will be satisfied.

Rural Residential Policy 8. Since there is a limited amount of area designated Rural Residential, efficient use of these areas shall be encouraged. The minimum lot size in Rural Residential areas existing on October 4, 2000, shall not be less than two acres allowing for a range of parcel sizes from two to 10 acres in size unless environmental limitations require a larger parcel. Areas rezoned to an Acreage Residential zone after October 4, 2000, shall have a 10-acre minimum lot size unless an exception to Goal 14 (Urbanization) is granted.

Applicants request a ten-acre minimum lot size. Rural residential policy 8 is met.

Rural Residential Policy 10. All residential uses in rural areas shall have water supply and distribution systems and sewage disposal systems which meet prescribed standards for health and sanitation.

The subject property already has a well and at 7.43 acres can likely accommodate a septic system. Septic permitting will be required prior to construction. In place septic review standards and criteria satisfy rural residential policy 10.

Rural Residential Policy 13. Where the use of community water supply systems is cost effective and there is not a service district able to provide the service they may be allowed. The availability of community water services shall not be considered justification for increasing the density of development beyond two acres per dwelling.

No public water service available to the subject property. The city of Woodburn extraterritorially extended public water service to the 10-acre, 44-lot Chateau Ranchettes manufactured home subdivision southeast of the subject property for health and safety reasons, but at one home on 7.43 acres, extension of services is not required or anticipated. This policy is not applicable.

Rural Residential Policy 14. In rural residential areas within one mile of an urban growth boundary, a redevelopment plan may be required as a condition of land division. The plan shall demonstrate that reasonable urban density development is possible should the urban growth boundary need to be expanded in the future.

The subject property is cater corner to the Woodburn UGB but development east of Highway 99 is restricted for at least 20 years. No redevelopment plan is required.

Rural Residential Policy 16. The Acreage Residential (AR) zone will be the predominant zone applied to the lands designated Rural Residential. A numerical suffix may be used to indicate the minimum lot size allowed in the zone.

Applicants request AR-10 zoning on the subject property. This policy is satisfied.

Rural Residential Policy 17. In rural areas mobile homes and manufactured dwellings will be allowed on the same basis as conventional site-built single-family housing.

No restriction on mobile home development is proposed or allowed. This policy is satisfied.

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. Water and wastewater disposal will be provided for on the site. Carl Road NE is an M CCP-identified local road that is in good condition that operates at level of service A. Adding one new homesite will not tax roadways in the area. Sheriff and fire/life safety services are in place. Electric and telephone services are already available in the area. 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.

AR-10 zoning of the subject property will allow one additional homesite, and will not tax current rural services or lead to any need for urban services. 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 proposed comprehensive plan amendment and zone change would allow one new dwelling. Few rural services would be consumed so no new rural services are needed. The proposal completes rather than encourages further settlement of the area. The proposal 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 would result in one new home. Few rural services would be consumed so no new rural services would be provided. Electric and telephone utilities are already in the area. No new public facilities are required. Rural services policy 4 is met.

Applicable M CCP policies are met.

ZONE CHANGE

20. 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.

21. With approval of the request that changes the MCCC designation from Special Agriculture to Rural Residential, the proposed AR-10 zone would be consistent with the Rural Residential plan designation. The area surrounding the subject property is zoned EFU and AR and is in varying densities of residential use. Changing the subject property to AR-10 zoning would allow one new home. Rural residential zoning of the subject property is appropriate considering area uses, density and development in the area. Electric, telephone and other utilities and services are available in the area. AR zoned properties in the immediate area are fully developed and other AR-10 zoned properties are either developed or too small to be further divided. The board finds that other AR-10 zoned lands are generally unavailable. The AR zone is the only zone allowed under the Rural Residential designation. AR-10 is the least intensive AR zone suffix.

22. With the taking of an exception to goal 3, and a comprehensive plan amendment to Rural Residential, the proposal satisfies the zone change criteria.

EXHIBIT B

The Marion County Board of Commissioners adopts the following condition in ZC/CP 17-001/Sharabarin.

CONDITION OF APPROVAL:

Pursuant to Marion County Code 17.123.070, the following condition applies to the zoning granted in this action. The condition is necessary for the public health, safety and welfare.

1. 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 Local road along the subject property Carl Road frontage, and a 35-foot property corner radius at the SW property corner intersection of Carl Road and Hwy 99E.

EXHIBIT C

The following described property is rezoned from EFU (EXCLUSIVE FARM USE) to AR-10 (ACREAGE RESIDENTIAL - 10 ACRE MINIMUM). ZC 17-001/SHARABARIN.

