



Marion County
OREGON

**ZONE CHANGE/COMPREHENSIVE
PLAN CHANGE APPLICATION**

RECEIVED

SEP 15 2022

**Marion County
Planning**

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

Fee: Please check the appropriate box:

- Zone Change - \$1880+\$30/acre
- Comprehensive Plan Change - \$3755+\$60/acre
- Zone Change/Comprehensive Plan Change - \$3755+\$60/acre
- Mineral Aggregate Site - \$5300 base fee +
 - \$25/acre – 0-100 acres
 - \$75/acre – 101-200 acres
 - \$100/acre – 201-399 acres
 - \$150/acre – 400+ acres

PROPERTY OWNER(S): Rafael Hernandez Mercado	ADDRESS, CITY, STATE, AND ZIP: 3092 Hammel St NE, Salem, OR 97301
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Christopher B. Matheny, Attorney at Law	ADDRESS, CITY, STATE, ZIP 1644 Liberty Street SE, Salem, Oregon 97302
DAYTIME PHONE (if staff has questions about this application): 503-581-1542	E-MAIL: Chris@MathenyLawFirm.com
ADDRESS OF SUBJECT PROPERTY: 8792 Portland Road NE, Salem, OR 97305	SIZE OF SUBJECT PROPERTY: 0.69 acres
The property owners request to change the zone from (current) <u>AR</u> to (proposed) <u>CC</u> and/or change the Comprehensive Plan designation from <u>Rural Residential</u> to <u>Community Commercial</u> . Provide detailed information on the attached "Applicant Statement" page.	
Will a railroad highway crossing provide the only access to the subject property? () Yes <input checked="" type="checkbox"/> No If yes, which railroad:	

FOR OFFICE USE ONLY:

Township <u>6</u>	Range <u>2W</u>	Section <u>17DC</u>	Application elements submitted:
Tax lot number(s) <u>200</u>	Zone: <u>AR</u> Comp Plan: <u>Rural Residential</u>		<input checked="" type="checkbox"/> Title transfer instrument
Zone map number: <u>27</u>	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural		<input checked="" type="checkbox"/> 2 Site plans showing existing/proposed zoning
<input checked="" type="checkbox"/> TPA/header <u>Mercado</u>	Case Number: <u>7022-009</u>		<input checked="" type="checkbox"/> Applicant statement
Signs given (min. agg. only):	Date determined complete:		<input type="checkbox"/> GeoHazard Peer Review (if applicable)
	Application accepted by: <u>JAS</u>		<input checked="" type="checkbox"/> Filing fee
	Date: <u>9/15/2022</u>		

THE APPLICANT(S) SHALL CERTIFY THAT:

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

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

Rafael Hernandez Mercado
Print Name


Signature

Print Name

Signature

Print Name

Signature

Print Name

Signature

DATED this 15th day of September, 2022

Applicant Statement (required)

It is up to the applicant to fully explain your proposal and how it conforms to Marion County land use regulations. This is your opportunity to provide detailed information on the “who, what, where, when and why” that is specific to your proposal.

There are specific criteria and regulations for each zone; these are available from the Planning Division. We strongly encourage you to obtain a copy of this information, review it, and then prepare your “applicant’s statement”.

These are a few items you should consider including (where applicable):

- Describe the property as it exists now and after implementation of the proposal: topography, existing structures and their use, new or alteration of structures, etc.
- Describe surrounding properties: type of land use, scale of development, etc. and any impact your proposed use might have on these properties such as dust, noise, fumes or odors, traffic, etc. And, if so, what measures will you take to mitigate these impacts?

See attached

(use additional paper if needed)



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September 15, 2022

VIA HAND DELIVERY:

Marion County
Planning Division
5155 Silverton Road NE
Salem, OR 97305

Re: Applicant's Statement and Proposed Findings of Fact
Comprehensive Plan and Zone Change Application
Subject Property: 8792 Portland Road NE, Salem, OR 97305
Property Owner: Rafael H. Mercado

Dear Planning Division:

Please be advised this office represents Rafael Hernandez Mercado, the owner of the subject property located at 8792 Portland Road NE, Salem, Oregon. See Exhibit A.

Attached please find Mr. Mercado's Zone Change/Comprehensive Plan Change Application for the subject property. The owner proposes to change the Comprehensive Plan designation from Rural Residential to Commercial and change the zoning designation from Acreage Residential (AR) to Community Commercial ("CC") within the Brooks-Hopmere community planning area of Marion County. See Exhibit I. The subject property is approximately 0.69 acres, and is identified as Tax Lot No. 200 of Marion County Assessor's Map 06-2W-17DC.

My client desires and intends to use the subject property as an administrative office for the owner's business, Oregon Portable Toilets, LLC, in addition to using it for parking and for storage of portable toilets and business equipment. We believe the proximity of the subject property adjacent to other storage sites and businesses within the Brooks Commercial Center and surrounding uses makes the subject property well suited for small-scale commercial use. Please see the attached photos of adjacent properties in the area. See Exhibit F (property adjacent to the North); Exhibit G (property adjacent to the south).

Property Description

The subject property includes a manufactured home and one garage connected to a workshop. No one resides in the manufactured home or on the subject property. Behind the garage and shop is an open dirt field. There is a gravel/dirt driveway with access to Portland Road. There is a small grass strip, and a fence along the west side of the subject property

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adjacent to Portland Road. The subject property is essentially flat. Photographs of the subject property are attached for your review. *See Exhibit B, C, D, E.*

Vicinity Description

Attached for your review please find an aerial photograph of the subject property and surrounding area. *See Exhibit H.* The adjacent property directly to the north appears to be utilized for storage of old vehicles, trailers, and other equipment. The parcel further north is a used car lot. Upon information and belief, the owner of the property directly adjacent to the north of our client's property also owns the car lot just one property further north. A photo of the adjacent northern property which reflects its current use (as a site for storage) is attached. *See Exhibit F.* The property to the east is utilized for farming, while the property to the south is residential but – on information and belief – is also used by the adjacent/southern property owner to store commercial equipment for that owner's business operations, including the storage of portable toilets. A photo of that southern adjacent property is attached. *See Exhibit G.* Properties across Portland Road to the west include businesses such as car dealerships, contractors, auto repair and restoration and customization, a gas station, a hardware store, and a glove company. *See generally Exhibit H.*

Existing Road

Portland Road is a major arterial in this area. It is a two-lane road with a left turn lane in the center with fog lines and paved shoulders.

Existing Utilities

The subject property is located within and is connected to the Brooks Community Sewer District. Potable water is provided by a private well. The subject property is located within the Gervais School District and Marion County Fire District No. 1, with a fire station located nearby on Brooklake Road approximately 0.3 miles from the subject property.

Requested Comprehensive Plan Amendment

My client proposes to have the subject property's zoning changed to Community Commercial ("CC"). This is the same zoning that is provided for most of the Brooks commercial area centered on Portland Road. Please refer to the attached aerial photograph of the subject property and area. As stated earlier, properties in the vicinity – including those directly adjacent to the subject property – are either already fully or partially utilized for business purposes, storage purposes, or upon information and belief, are intended to be utilized for such soon. Properties across Portland Road to the west are non-residential, the property to the east is used for farming, and properties to the north and south are currently residential but already (or intended to be) utilized for business-type purposes and/or storage with multiple vehicles, trailers, and business equipment parked/stored on those properties. Changing the zoning of the subject

property to CC will maintain the current nature and use of the Brooks Commercial Center/District.

The Marion County Comprehensive Plan (“MCCP”) requires that amendments must be consistent with the applicable MCCP goals and policies. Policy 2 of the MCCP Plan Amendments provides a procedure for the evaluation of individual property Quasi-Judicial Amendments as follows:

“Plan changes directly involving five or less properties will be considered a quasi-judicial amendment. Quasi-judicial amendments may be initiated by the subject property owners with an application form supplied by the Marion County Planning Division. The amendment will be reviewed by the zone change procedure established in the Marion County Zoning Ordinance. A plan amendment application of this type may be processed simultaneously with a zone change request.”

The Introduction Section of the MCCP’s Rural Development Section identifies three general development policies as follows:

“1. *All land divisions should be reviewed by Marion County for their compatibility with County goals and polices.*”

Response: The application in this case does not involve a land division, and therefore this policy is not applicable.

“2. *‘Strip-type’ commercial and residential development along roads in rural areas shall be discouraged.*”

Response: The application in this case does not seek a “strip-type” development on the subject property. Instead, if this application is granted, the structures on the property will be utilized to create an office and storage for the owner’s business as set forth previously in this statement. The subject application satisfies this 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.*”

Response: The CC zone that is requested in this MCCP change is relatively limited in the kinds of uses allowed. The CC zone requirements limit the maximum allowable size of individual commercial buildings in a rural community (such as Brooks) to 4,000 sq. ft. per new building. In addition, in rural communities, no more than 60 percent of a parcel shall be covered by buildings. Those standards for a CC zone, coupled with the relatively small parcel size of the subject property, and the proximity on two of the four sides of the subject property by

non-residential uses will make the proposed future use of this subject property in this case best suited to the rural location, and will be compatible with existing uses of the area. For these reasons, this policy is satisfied.

General Development Policies of the Comprehensive Plan

Rural Development Policies

There are a number of MCCP rural development policies that must be addressed as part of the plan amendment process. Those policies are as follows:

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

Response: The subject property is located in the urban unincorporated community of Brooks-Hopmere, a designated unincorporated community. There are no specific uses proposed except those that would be allowed within the CC zone. Demonstrated commercial need has generally been left to the marketplace as commercial lands are sought by the private sector in individual quasi-judicial applications. This site is suitable for commercial use, given the commercial, non-residential uses to the west and east, and the business-type storage and uses already being utilized on the other adjacent residential properties to the north and south. Therefore, rural development policy 1 is met.

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

Response: The subject property is within the map boundary of the Brooks-Hopmere Community Plan, as adopted in July 2000. No expansion of that mapped boundary is necessary or requested. Rural development policy 2 is met.

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.*

Response: As noted earlier, the subject property is located within Brooks Community Sewer District and the subject property is connected to that District's sanitary sewer system. The subject property is adequately served by a private well. Policy 3 is met.

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

Response: The property is already within the Brooks Community Sewer District. Uses that could be allowed in the CC zone are small-scale, low impact uses intended to service rural

areas. Because the CC zoning designation will curb the allowed uses, the proposal in this case will not encourage urbanization. Rural development policy 4 is met.

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

Response: The proposal is not for residential development and the subject property is not located within an interchange district. Rural development policy 5 is not applicable.

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

Response: This is a policy meant to be implemented by Marion County, not an individual applicant. The proposed zone, CC as it is now written, contains provisions so that the allowed uses will not conflict with surrounding agriculture uses. CC is the predominant use for the Brooks commercial node and community. The subject property is not located near any existing or potential agricultural or forested areas. Rural development policy 6 is met.

7. *Multi-family zoning shall not be permitted in Rural Communities or Rural Services Centers.*

Response: Multi-family use is not anticipated or proposed, and is not allowed in the proposed CC zone. Rural development policy 7 is met.

Policy eight relates to several "Interchange Districts." Brooks is not one of them, so this rural development policy is not applicable. Policy nine relates to how expansion of Interchange Districts may be considered. Policy nine is not applicable.

Brooks-Hopmere Community Plan

The subject property is located in a rural community and is part of the Brooks-Hopmere Community Plan. According to the MCCP, the rural communities should retain their rural characteristics by allowing only those activities that are consistent with a low density rural community and the unincorporated communities rule.

The application must comply with the Brooks-Hopmere Community Plan policies listed below.

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 agriculture uses in the surrounding EFU areas.*

Response: Only one property adjacent to the subject property is EFU land, and the intended use of this property will not impact the agricultural use as the property is intended to be for low impact administrative work and equipment storage. The subject property's location is surrounded by dwellings, properties used for storage, and other community and commercial uses that do not interfere with agriculture. In addition, the CC zone standards that are in place such as setbacks, maximum building size building coverage will safeguard agricultural uses in the area. The policy is satisfied.

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.*

Response: It is anticipated that fewer than 5 vehicles per day will visit the Applicant's business at the subject property. That traffic will not cause the capacity of Portland Road to be exceeded. This policy is satisfied.

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

Response: The limitation on size (building size) and type of use allowed in the CC zone, coupled with the relative small size of this property will prevent excess demand on the existing sewer system. This policy is satisfied.

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.*

Response: The application does not request rezoning to multifamily, so this policy is not applicable.

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

Response: The Norpac site is not involved in this application. Therefore, this policy is not applicable.

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.*

Response: The subject property was not subject to an overlay zone designation. This policy is not applicable.

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.*

Response: Although the property is currently serviced by the Brooks Community Sewer District, as a condition of approval the Applicant will be required to provide evidence that the Sewer District can provide adequate services to the property. This condition may be addressed when individual building permits for specific commercial use(s) are requested. As conditioned, this policy is satisfied.

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.*

Response: The application is for a commercial zone designation. This designation would have a lesser impact on the sewer system than industrial or manufacturing use. This policy is satisfied.

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

Response: This is not a criterion but an aspirational objective for the County and nothing in the application would preclude the development of an expanded water system for the Brooks-Hopmere community. This policy is not directly applicable.

Rural Service Policies of the Comprehensive Plan

General Policies

a. *The impact on existing services and the potential need for additional facilities should be evaluated when the rural development is proposed.*

Response: The evaluation is part of this land use application process. The land use approval criteria are being addressed. Utility agencies will be notified of this application. We will contact the County's engineer responsible for the sewer district as well as the County's traffic engineer and engineer in charge of development applications. By the completion of this application process, this policy will have been met.

b. *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.*

Response: The limitations contained in the CC zone and the BHCP will limit the commercial activities allowed on the property and therefore, will maintain the rural character of the area and not increase the demand for more urban services. The relatively small size of this parcel will also mean that future commercial use(s) (if any) will be on a scale that maintains the rural character of this Plan area. This policy is met.

c. *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.*

Response: There is no indication that there is a need for any additional facilities or services. The subject property is already serviced by the Brooks Community Sewer District and receives water from its own private well. No additional utility-related services should be needed. With conditions of approval relating to right-of-way improvements tied to future specific building permits, this policy will be met.

d. *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.*

Response: This is more of an aspirational goal than a criterion and is not applicable.

e. *Marion County shall participate in a regional solid waste program and shall develop a program providing adequate solid waste disposal service for rural areas.*

Response: This policy is not applicable.

Special District Policies

a. *Marion County shall coordinate with the special service district in the County in planning for growth and development which will occur within the districts. A joint review process established through coordination agreements will be used to facilitate this coordinated planning.*

Response: This policy is addressed by having the Brooks Sewer District participate in this land use application process, as their comments will be solicited after notification.

b. *Marion County shall encourage close cooperation between cities, public and private schools and the County in the matter of school site selection. Acquisition, planning and joint use.*

Response: This policy is not directly applicable to the application, but all districts including the fire district and the Gervais School District will have the opportunity to comment on this application.

c. *The County shall be guided by the policies of the coordinated plan of local school districts in approving development proposals within each district. The county shall also provide notice of land use action to districts that have not yet developed coordinated plans. Comments received from these districts shall be considered in the review of development proposals.*

Response: This policy is not applicable to the application, except as these entities are notified and consulted during this land use application process.

d. *Marion County shall require evidence that the level of fire protection provided a fire district is adequate to service proposed land development. If service is not adequate the development shall be denied or be conditioned so that necessary facilities are provided.*

Response: Marion County Fire District #1 has a station located nearby on Brooklake Road. Response times on fully-improved local roads are expected to be well within district standards. The Fire District will be asked to comment on this application for new commercial use of the site. The policy is satisfied.

e. *In those areas not served by a fire district, Marion County shall require evidence of fire protection by private means prior to approval of future rural subdivisions, commercial or industrial development. Implementation of the fire protection program recorded in Chapter 3 of Fire Safety Consideration for Development in Forested Areas, 1978, shall be a requirement of use approval for residences located near timber land whether or not they are located in a fire district.*

Response: The area is serviced by Marion County Fire District No. 1, so this policy is not applicable.

f. *The creation or expansion of any sewer district as well as the extension of sewer services to lands outside an existing service district's boundaries, unincorporated communities' boundaries, urban growth boundaries or city limits shall be discouraged unless the area to be served has demonstrated persistent health hazard problems confirmed by the County Health Department and the State Department of Environmental Quality and needs for which no other practical and reasonable alternative is available. Cost may be a factor in determining whether an alternative is practical and reasonable, however, cost shall not be the only factor or even the primary factor. Any extension shall require the approval of the Marion County Board of Commissioners and an exception to Goal 11 (Public Facilities and Services).*

Response: The property is within and currently serviced by the Brooks Community Sewer District. This policy is not applicable.

g. *The creation or expansion of any water district as well as the extension of water services to lands outside an existing service district's boundaries, unincorporated communities' boundaries, urban growth boundaries or city limits shall be discouraged unless the area to be served has demonstrated persistent health hazard problems confirmed by the County Health Department and the State Department of Environmental Quality and needs for which no other practical and reasonable alternative is available. Cost may be a factor in determining whether an alternative is practical and reasonable, however, cost shall not be the only factor or even the primary factor. Any extension shall require the approval of the Marion County Board of Commissioners.*

Response: The subject property is serviced by its own private well. The application is not seeking the creation or expansion of any water district. The property is not mapped as a sensitive groundwater overlay area. This policy is satisfied.

Statewide Planning Goals

Rural communities are exception areas and exceptions for the subject property were taken to Goal 3 and 14. An exception to Goal 3 was taken on June 18, 1980, prior to the adoption of the Oregon Administrative Rules (OAR) 660 Chapter 22, the chapter that governs the designation and planning for unincorporated communities. The BHCP was acknowledged as being compliant with Goal 14 when the plan was implemented. As such, no further analysis is needed of Goals 3 and 14. However, according to OAR 660-004-0018(1), exception to one goal or a portion of one goal does not relieve the jurisdiction from the requirements of the remaining 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.

Response: The notice to property owners, agencies and special interest groups, and hearings process before the hearings officer and Board of Commissioners provides the opportunity for citizen involvement. Goal 1 is met for such decisions and actions.

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.

Response: 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 which have programs, land

ownership, or responsibility within the area included in the plan. Implementation measures can be site specific.

Applicants propose a site-specific Comprehensive Plan amendment. Marion County will notify the affected government units, including DLCD of the proposed comprehensive plan amendment. By reviewing this proposed Plan amendment through the County's process, Goal 2 is satisfied.

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

Response: The subject site is part of the Brooks-Hopmere exception area, and is therefore exempt from the requirements of Goal 3.

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 species as the leading use on forest land consistent with sound management of soil, air, water, fish, and wildlife resources and for recreational opportunities and agriculture.

Response: The subject site is not in a forest zone and has no known forestland capability. This goal is not applicable.

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

Response: No goal 5 resources are mapped or otherwise identified on or near the subject site. This goal 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.

Response: Normal commercial and public use of this property will not generate significant particulate discharges. The subject site is not in an identified sensitive groundwater overlay zone. The area is already serviced by the Brooks Community Sewer District. Water is provided onsite by its own private well. A condition of approval may require the Brooks Community Sewer District to confirm it can adequately service the proposal, or as part of the building permit process for future commercial use(s). As conditioned in this manner, this goal can be met.

Goal 7: Area Subject to Natural Disaster and Hazards. To protect life and property from natural disaster and hazards.

Response: The subject site is not in an identified floodplain or a geologically hazardous area. The site is nearly flat and drains adequately. 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.

Response: No goal 8 resources are identified on the subject site or impacted 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.

Response: This goal addresses commercial and industrial development, primarily in urban areas. Under OAR 660-009-0010(1), OAR Chapter 660, Division 9 applies only to Comprehensive Plans for areas within urban growth boundaries. Additional planning for commercial development outside urban growth boundaries is not required or restricted by this rule. The subject property is not inside an urban growth boundary. Goal 9 is not applicable.

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

Response: OAR 660-08-000 is intended to define standards for compliance with Goal 10. OAR 660-08 deals with the provision of adequate numbers of needed housing units, and the efficient use of buildable land within urban growth boundaries. The subject site is not within a UGB and 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.

Response: Water is provided by a private well, and sewer service is provided by Brooks Community Sewer District. The applicants have not proposed and do not need an expansion or extension of any existing public facilities or services. Since development of the site with CC-zone use(s) will require no extension of new services, Goal 11 is met.

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

Under OAR 660-012-0060(1), amendments to acknowledged comprehensive plans and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. 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. *As measured at the end of the planning period identifies in the adopted transportation system plan:*
 - i. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - ii. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan: or*
 - iii. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

Response: It is anticipated that fewer than 5 vehicles per day will visit the Applicant's business at the subject property. That traffic will not cause the capacity of Portland Road to be exceeded. This policy is satisfied.

Goal 13: Energy Conservation. *To conserve energy.*

Response: There is no indication that the granting of the application will significantly increase any energy use. Energy may be in fact be conserved by allowing commercial uses here that would be in a geographically more convenient location for the surrounding Brooks-Hopmere community. Goal 13 is satisfied.

Goal 14: Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

Response: As stated above, an exception has been taken for the Brooks-Hopmere Community Planning Area and therefore has already been acknowledged to be in compliance with Goal 14.

Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources), are not applicable because the subject site is not within the Willamette River Greenway, or near any ocean or coastal related resources.

//

Summary

This application meets the approval criteria for the comprehensive plan amendment as required by the County's Comprehensive Plan as well as the Brooks-Hopmere Community Plan.

Zone Change

The Marion County Zoning Ordinance, Section 1223.060 contains the following zone change 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 description and policies for the applicable land use classification in the Comprehensive Plan; and

Response: The proposed CC zone is consistent with the Comprehensive Plan designation of Commercial as proposed. Assuming the goals and policies of the Plan relating to this Plan change are approved as proposed in this application, then the CC zone is appropriate to implement the Commercial Plan designation, and this policy is met.

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

Response: The surrounding land uses, densities and pattern of development make this CC zone appropriate for this site. Please refer to the attached Brooks area zoning map. The land directly west across Portland Road has the CC zone, as does most of the Brooks commercial node as shown on the map. In general, the area within the vicinity of the subject property is predominantly used for business and commercial purposes. The CC zone, especially for this property on Portland Road, is appropriate for this site, and thus meets this criterion.

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

Response: As noted above, the site already has sanitary sewer from the Brooks system, and water is provided by a private well. The CC zone change can occur without causing traffic volumes to exceed the capacity of Portland Road. Other adjacent right-of-way improvements can be built concurrently with the development of the property. The site is within the Gervais School District. The site is near the Brooks station of Marion County Fire District #1, at 4960 Brooklake Road. This zone change criterion is met.

d. The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated use due to location, size, or other factors.

Response: There is very little or no land available for more commercial uses in the Brooks area. Even back in 2000 when the Brooks-Hopmere Plan was adopted, there were only .47 acres of vacant CC zoned land left in the entire Brooks area, demonstrating the sparse opportunity for expansion of commercial uses in the Brooks area. Some lands may be underutilized, but they have existing businesses on those properties, and thus are not available for development.

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 the adjacent properties zoned for less intensive uses.

Response: The proposed zone (CC) is the predominant zone for the Brooks commercial area, so more intensive uses will not be allowed here than are allowed elsewhere in this commercial area. This criterion is met.

Summary

This proposal meets the zone change approval criteria of the Marion County Code.

Application Summary

This application shows that the proposed change from the Rural Residential Plan designation and the AR zone to the Commercial Plan designation and the CC zone does not constitute a "strip zoning" situation. The application is shown to meet all goals and policies of the Marion County Comprehensive Plan as well as the adopted Brooks-Hopmere Community Plan. The application also meets all approval criteria in the Zoning Code for such a change. The application should be approved as submitted.

Sincerely,



Christopher B. Matheny

NAR:rar

Enclosures

cc: Client (*via email*)

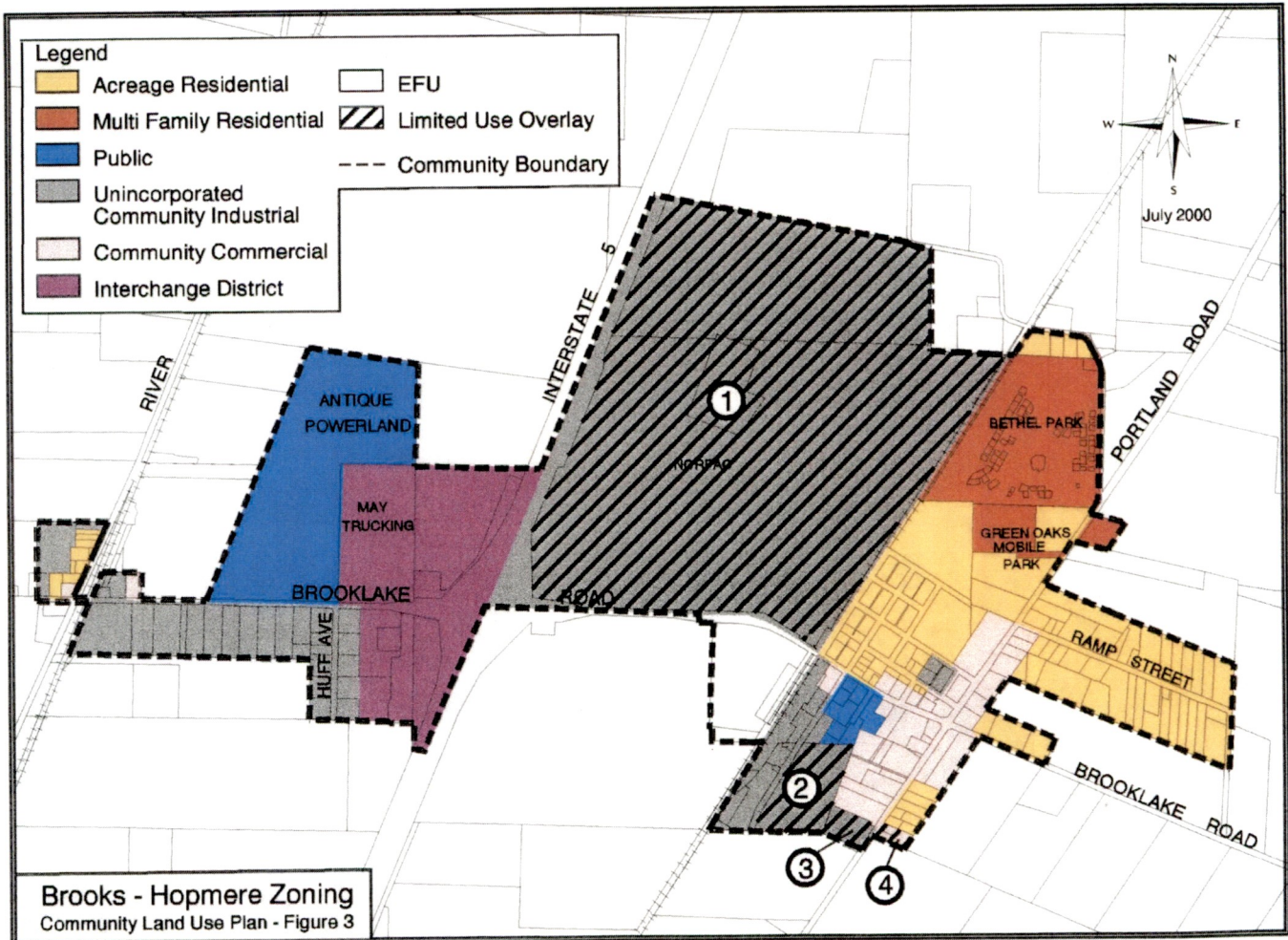








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Exhibit E - Page 1 of 1





