



MARION COUNTY BOARD OF COMMISSIONERS

## Board Session Agenda Review Form

Meeting date: June 10, 2020

Department: Public Works Agenda Planning Date: June 4, 2020 Time required: None

☐ Audio/Visual aids

Contact: Joe Fennimore Phone: 503-566-4177

Department Head Signature:

*Brian Nielsen*

**TITLE**

Consider adoption of an administrative ordinance granting Zone Change/Comprehensive Plan (ZC/CP) Case 20-001/Chemeketa Community College on property owned by A & S Real Estate Management, LLC.

Issue, Description & Background

The Marion County Hearings Officer held a public hearing on March 10, 2020, and on March 31, 2020, issued a recommendation that the Board approve ZC/CP 20-001. The Board held a duly noticed public hearing on May 21, 2020, 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 adoption of the ordinance at the next board session, June 17, 2020.
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 attached ordinance at the next regular board session on October 9, 2019.

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 application of:	)	Case No. ZC/CP 20-001
Chemeketa Community College and	)	
A & S Real Estate Management, LLC	)	Clerk's File No. 5803

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 Chemeketa Community College, on land owned by A & E Real Estate Management, LLC, to change the zone from IUC-LU (Unincorporated Community Industrial – Limited Use) to IUC (Unincorporated Community Industrial), with an exception to Statewide Planning Goal 3 (Agricultural Lands), on a 2.63 acre parcel located at 8685 Portland Road NE, Salem (T6S; R2W; Section 17DC; tax lot 1100). The property is within the urban unincorporated community of Brooks-Hopmere.

**SECTION II. Procedural History**

The Hearings Officer held a public hearing on this application on March 10, 2020, and on March 31, 2020, issued a recommendation that the Board approve ZC/CP 20-001. In the recommendation the hearings officer found that the applicant met the burden of proving that the criteria for a zone change to IUC, and an exception to Goal 3 are satisfied. The Board held a duly noticed public hearing on the application on May 27, 2020, 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 Fact and Conclusions of Law contained in Exhibit A, attached hereto, and by this reference incorporated herein.

**SECTION IV. Action**

The requested zone change from IUC (Unincorporated Community Industrial – Limited Use) to IUC (Unincorporated Community Industrial) with an exception to Statewide Planning Goal 3 (Agricultural Lands) is hereby **GRANTED**, subject to conditions identified in Exhibit B, attached hereto, and by this reference incorporated herein.

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

SECTION V. Effective Date

Pursuant to Marion County Code Section 1.10.030, 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 \_\_\_\_\_ ,  
2020, 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

## BEFORE THE MARION COUNTY BOARD OF COMMISSIONERS

In the Matter of the Application of:	)	Case No. ZC/CP 20-001
	)	
Chemeketa Community College and	)	<b>ZONE CHANGE/COMPREHENSIVE</b>
A & S Real Estate Management, LLC	)	<b>PLAN AMENDMENT</b>

### DECISION

#### **I. Nature of the Application**

This matter came before the Marion County Board of Commissioners on the application of Chemeketa Community College, on land owned by A & E Real Estate Management, LLC, to change the zone from IUC-LU (Unincorporated Community Industrial – Limited Use) to IUC (Unincorporated Community Industrial), with an exception to Statewide Planning Goal 3 (Agricultural Lands), on a 2.63 acre parcel located at 8685 Portland Road NE, Salem (T6S; R2W; Section 17DC; tax lot 1100). The property is within the urban unincorporated community of Brooks-Hopmere. The removal of the limited use overlay requires an amendment to the Marion County Comprehensive Plan. Marion County designated this case number ZC 20-001 to ZC/CP 20-001.

#### **II. Relevant Criteria**

The standards and criteria relevant to this application are found in the Marion County Code (MCC), title 17, especially chapters 123 and 164, the Brooks-Hopmere Community Plan, the Marion County Comprehensive Plan (MCCP), Statewide Land Use Planning Goals, and Oregon Administrative Rules (OAR), chapter 660, divisions 4 and 22.

#### **III. Hearing**

A public hearing was held before the Marion County Hearings Officer on the application on March 10, 2020. At hearing, the Planning Division file was made part of the record. The following persons appeared and provided testimony:

- |    |                    |                              |
|----|--------------------|------------------------------|
| 1. | Lisa Milliman      | Planning Division            |
| 2. | Holly Nelson       | Representative for Applicant |
| 3. | Margaret Gander-Vo | Attorney for Applicant       |

No objections were raised to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing. Public notice appropriately identified this application as a Zone Change/Comprehensive Plan amendment and included the relevant approval criteria. The Hearings Officer recommended the Board of Commissioners approve the application, subject to conditions of approval.

A public hearing was held before the Marion County Board of Commissioners on the application on May 27, 2020. At the hearing, the following persons appeared and provided testimony.

- |    |               |                        |
|----|---------------|------------------------|
| 1. | Joe Fennimore | Planning Division      |
| 2. | Mark Shipman  | Attorney for Applicant |

No objections were raised to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing. Public notice appropriately identified this application as a Zone Change/Comprehensive Plan amendment and included the relevant approval criteria. The Board of Commissioners approves the application, subject to conditions of approval.

#### **IV. Findings of Fact**

The Board of Commissioners, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject property is located on the west side of Oregon State Highway 99E, approximately 1,200 feet south of the intersection of Brooklake Road NE and Highway 99E. The property was recognized as a legal parcel when the Brooks-Hopmere Unincorporated Community was adopted. Sewer service is provided by the Brooks Community Sewer District. The subject property is designated Industrial Land on the MCCP.
2. Surrounding property to the north and northeast is zoned CC (Community Commercial) and developed with commercial uses. Property to the south and southeast is zoned EFU (Exclusive Farm Use) and is in farm use. Property to the west is zoned P (Public) and is developed with the Chemeketa Community College Brooks Campus.
3. The subject property is within the urban unincorporated community of Brooks-Hopmere, a community identified in 2000 under the provisions in OAR 660-022 (Unincorporated Communities). As such, the entire community is rural exception land to which the Agricultural and Forestry goals (Goals 3 and 4) no longer apply. Removal of the limited use overlay requires an exception to Goal 3.
4. The subject property is currently developed with an approximately 44,880 square foot storage warehouse and an approximately 864 square foot modular office. The property is currently used as a manufacturing and distribution site for the Red Steer Glove Company. There are no identified sensitive groundwater areas, floodplain hazards, or geologic hazards located on the property. Access is provided by Portland Road NE, also known as Oregon State Highway 99E, and subject to Oregon Department of Transportation's (ODOT) jurisdiction.
5. Applicant proposes to change the zone from IUC-LU to IUC. The IUC zone has been acknowledged by the Department of Land Conservation and Development (DLCD) as complying with the rural community rule and has been applied to the subject property under the rule. Applicant wishes to remove the limited use overlay to allow uses that are

allowed in the IUC zone but are not included in the limited use overlay. The zone change process is subject to ORS 197.610-197.625, the post-acknowledgement amendment process. While that is the process being followed, there are no specific criteria for this zone change in those statutes.

6. Applicant plans to develop a diesel mechanic 2-year associates degree program on the subject property, as part of the Chemeketa Community College Brooks Campus. Applicant stated that the proposed use will be integrated into the Brooks Campus, with students parking at that campus and walking over to the subject property for classes. In addition to parking, administrative support and student services are already established at the Brooks Campus. Applicant stated that the program aligns with workforce needs of the region and will create more jobs in the area. The program will enroll cohorts of approximately 25 students each year and will operate in roughly 1/3 of the current building.
7. Applicant's site plan shows a proposed asphalt ramp that will connect the existing building to the adjacent Brooks Campus. Applicant stated at hearing that the ramp is necessary to get trucks into the building, as entry into the building is raised several feet above the ground.
8. Applicant requested a similar use determination from the Marion County Planning Director, who found that a diesel engine repair educational program is similar to a "Freight trucking terminal, with or without maintenance facility (SIC 4231)" and to "Automotive repair (SIC 753)," which are listed as permitted uses in the IUC zone but are not included in the limited use overlay, and are consistent with the Brooks-Hopmere Community Plan land use planning considerations and development standards.

Marion County Public Works Land Development and Engineering Permits provided the Requirements and Advisory given below.

#### ENGINEERING REQUIREMENTS

- A. The subject property is within unincorporated Marion County and may be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #00-1 OR.
- B. The Site is located within Marion County's DEQ MS4 Stormwater Management Area. Fill work for the proposed ramp will require implementation of erosion control measures, and in support of that, execution of a no-cost MCPW Engineering Erosion Control Acknowledgement Form.

#### ENGINEERING ADVISORY

- C. Access to Portland Road is controlled by ODOT.

The Marion County Tax Assessor provided comments regarding taxes on the subject property. All other contacted agencies either failed to respond or stated no objection to the proposal.

## **V. Additional Findings of Fact and Conclusions of Law**

1. This is the decision of the Marion County Board of Commissioners (BOC). The BOC is the final decision making authority.
2. Applicant has the burden of proving all applicable standards and criteria are met. As explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390 at 394-95 (1987):

‘Preponderance of the evidence’ means the greater weight of evidence. It is such evidence that, when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted.)

Applicant must prove, by substantial evidence in the whole record, that it is more likely than not that each criterion is met. If the evidence for any criterion is equally likely or less likely, Applicant has not met its burden and the application must be denied. If the evidence for every criterion is in Applicant’s favor, then the burden of proof is met and the application must be approved.

### **GOAL EXCEPTION**

3. The subject property is within the urban unincorporated community of Brooks-Hopmere, a community identified in 2000 under the provisions in OAR 660-022. As such, the entire community is rural exception land, to which Statewide Planning Goal 3, Agricultural Lands (to preserve and maintain agricultural lands), no longer applies. However, this property was subject to a limited use overlay zone designation upon the adoption of the Brooks-Hopmere Community Plan, based on a reasons exception to Goal 3. In order for the limited use overlay to be removed, an exception to Goal 3 must be taken. Under OAR 660-004-0005(1), an exception to a statewide planning goal is a comprehensive plan provision. The goal exception requires an MCCP amendment.

OAR 660-004-0005(1) defines an exception as a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

- (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
- (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
- (c) Complies with ORS 197.732(2), the provisions of [OAR 660-004] and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.

The proposed exception is for a specific situation at this 2.63-acre property and does not establish planning and zoning policy generally. OAR 660-004-0005(1)(a) is met. Applicant proposes removal of a limited use overlay to allow a use not permitted under the overlay applied at the time the original goal exception was taken. OAR 660-004-0005(1)(b) is met. Under 197.732(2)(a), a local government may adopt an exception to a goal if the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.<sup>1</sup> This will be addressed below, along with the relevant provisions of OAR 660-004. The provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030, and 660-014-0040 do not apply to this application. OAR 660-004-0005(1)(c) is met.

4. Under OAR 660-004-0025(1), a local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. OAR 660-004-0018 explains the requirements for adoption of plan and zone designations for exceptions. Under OAR 660-004-0018(2), for a “physically developed” exception to a goal, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

- (a) That are the same as the existing land uses on the exception site;

- (b) That meet the following requirements:

- (A) The rural uses, density, and public facilities and services will maintain the land as “Rural Land” as defined by the goals, and are consistent with all other applicable goal requirements;

- (B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

- (C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

- (c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, “Planning and Zoning of Unincorporated Communities,” if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

- (d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on

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<sup>1</sup> Planning staff corrected the staff report at the initial hearing, noting that Applicant is taking a “physically developed,” rather than “irrevocably committed,” exception.



January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

Applicant is requesting a “physically developed” goal exception. OAR 660-004-0018 requires that all plan and zone designations limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d) (emphasis added). Subsections (c) and (d) are examined.<sup>2</sup>

Under OAR 660-004-0018(c), uses in unincorporated communities must be consistent with OAR 660-022-0030, if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22. The Brooks-Hopmere Community was designated an unincorporated community under the applicable provisions of OAR chapter 660, division 22. Under OAR 660-022-0030(3), county plans and land use regulations may only authorize certain new or expanded industrial uses in unincorporated communities, including:

\* \* \* \* \*

(c) Small-scale, low impact uses;

\* \* \*

(e) New uses that will not exceed the capacity of water and sewer service available to the site on the effective date of this rule, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;

\* \* \*

(g) Industrial uses, including accessory uses subordinate to industrial development, as provided under either paragraph (A) or (B) of this subsection:

\* \* \*

(B) Industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in an area planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

The proposed use will be small-scale and low impact. MCC 17.164.080, in the IUC Zoning chapter, defines large-scale uses as those permitted in a building or buildings with over 60,000 square feet of floor space. By definition, this use is not large-scale. Applicant’s proposed diesel mechanic program will take place in the existing 44,880 square foot building, and no more than 25 students will be in class at any given time. The subject property is already zoned for industrial use, and the purpose of this

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<sup>2</sup> OAR 660-004-0018(d) mirrors OAR 660-022-0030(3)(g)(B).

application is solely to remove the limited use overlay. The current use and existing improvements on the subject property are served by adequate public facilities and services, and the proposed use will not exceed the capacity of water and sewer service available to the site. In addition, the subject property was planned and zoned for industrial use when the Brooks-Hopmire Community Plan was adopted in 2000, pre-dating January 1, 2004. OAR 660-004-0018 is satisfied.

**5. Applicant has proven that all applicable criteria for a Goal 3 exception are met.**

**Brooks-Hopmire Community Plan**

**6. The following comprehensive plan policies in the Brooks-Hopmire Community Plan apply to the proposal:**

**A. Land Use and Transportation**

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

The IUC zone was acknowledged by DLCD as a zone appropriate to be applied in an urban unincorporated community. The uses in the IUC zone are limited to industrial uses that have minimal impact on surrounding resource land and can be supported by public services available in an unincorporated community. The proposed use of the subject property for diesel engine repair is not anticipated to have any appreciable effect on agricultural uses in the surrounding area. In addition, applicant states that the proposed use will be used to support neighboring agricultural uses in the future, by providing repair and maintenance facilities for associated equipment and machinery. This policy is satisfied by the proposal.

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.

Applicant proposes to establish a diesel engine repair educational program on the subject property. Applicant stated that the proposed use would not increase the number of vehicle trips per day that is generated by the existing use of the property as a warehouse storage facility. At hearing, Applicant stated the proposed use will likely accommodate up to 25 students at a time. This policy is satisfied.

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

As stated, the proposed use will likely accommodate up to 25 students at a time. The training program does not use water in the diesel engine repair process, and Applicant stated that students will utilize services already available at the adjacent Brooks Campus. The IUC zone also implements this policy, because it contains standards for development to ensure a proposed use in the zone undergoes a review of sewer capacity before it is established. This policy can be satisfied by requiring a review of

sewer capacity before establishment of any industrial activities on the property as a condition of any approval.

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-Hopmire Community Plan shall continue to be subject to the limitations of the overlay zone.

The subject property was subject to a limited use overlay zone designation upon the adoption of the Brooks-Hopmire Community Plan based on a reasons exception to statewide Goal 3. In order for the limited use overlay to be removed, a Goal 3 Exception must be taken. These requirements are addressed above.

#### B. Utilities

1. New uses or expansion of existing uses requiring land use approval in Brooks-Hopmire 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.

As stated, industrial uses allowed in the IUC zone are likely to require minimal water and sewer services. In addition, the IUC zone itself implements this policy because it contains standards for development to ensure a proposed use in the zone undergoes a review of sewer capacity before it is established. This policy can be satisfied by requiring a review of sewer capacity before establishment of any industrial activities on the property as a condition of any building permit or other approval.

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.

The proposed use does not use water in the diesel engine repair process. If any other industrial uses allowed in the IUC zone are allowed that use water in industrial or manufacturing processes, the proposal can be reviewed for compliance with this policy. In addition, the IUC zone itself implements this policy because it contains standards for development to ensure a proposed use in the zone undergoes a review of sewer capacity before it is able to be established. This policy can be satisfied by requiring a review of sewer capacity before establishment of any industrial activities on the property as a condition of any approval.

7. **Applicant has proven that all applicable Brooks-Hopmire Community Plan policies are met.**

#### **MCCP Policies**

8. Under MCCP Plan Amendment Policy 2, a plan change directly involving five or fewer properties is considered a quasi-judicial amendment. Quasi-judicial amendments may be initiated by the subject property owner with an application form supplied by the Marion County Planning Division. The amendment will be reviewed by the zone change

procedure established in MCC title 17. A plan amendment application of this type may be processed simultaneously with a zone change request.

The subject property is one parcel. The proposal is considered a quasi-judicial amendment request reviewed under applicable MCC title 17 procedures.

Applicant is not requesting to change the comprehensive plan designation for the subject property. Removing the limited use overlay will amend the comprehensive plan, so certain general and rural development policies of the MCCP apply.

### General Policies

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.

Brooks-Hopmere is an urban unincorporated community recognized by OAR 660-022. The community, and the zoning that applies in the community, ensure that the industrial, commercial and public uses are suited to the location of the community and compatible with existing rural developments and agricultural goals and policies. This policy is satisfied.

### Rural Development Policies

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

The boundaries of the community are not being expanded by this proposal. This policy does not apply.

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

The boundaries of the service district are not being changed or expanded by this proposal. This policy does not apply.

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

The proposed use will be served by the services provided to the existing use on the property and limited by the available capacity of the Brooks Sewer District. This policy is satisfied.

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 property is in an unincorporated community - not a rural service center. This policy does not apply.

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 to be appropriate to implement the rural communities rule in the urban unincorporated community of Brooks-Hopmere. It contains a set of uses limited in size and nature to ensure the property remains rural and compatible with surrounding uses. The zoning proposed to be applied to the property ensures that this policy is satisfied.

### Rural Industrial Policies

2. Rural industries should be compatible with existing development and farm or forest uses in the vicinity, should not involve a large number of employees, should not require heavy truck traffic through residential areas or on unimproved roads, and should not have the potential to exceed the environmental capacity of the site or require urban services.

The subject property is located in the Brooks-Hopmere unincorporated community. The proposed use of the property is a diesel engine repair educational program using an existing building, a use which has been determined by the Marion County Planning Director to be similar to those permitted in the IUC zone. No more than 25 students will be in class at any given time. No significant water will be used in the diesel engine repair educational program, so no urban services are necessary. Diesel engine repair activities would occur primarily within a building, and any additional development of the site that might occur in the future will require compliance with stormwater management regulations as part of the building permit process. The property has frontage on Portland Rd NE, an arterial road, and no truck traffic will pass through residential areas to access the property. The proposal complies with this policy.

3. A non-resource-related industrial use should not be permitted on resource lands unless an evaluation of the relevant County and State goals and the feasibility of locating the proposed use in an urban growth boundary or rural non-resource lands show that the proposed site on resource lands is the most suitable.

The subject property is already zoned for industrial use and is not in resource use, and the impact from the proposed use is not expected to differ from that of the current use. The property is adjacent to Applicant's Brooks Campus and can utilize services already available. The Marion County Planning Director determined that the proposed use is similar to the outright permitted uses in the IUC zone. County and State goals are evaluated in this Recommendation. The proposal complies with this policy.

9. **Applicant has proven that all applicable MCCP policies are met.**

### **STATEWIDE PLANNING GOALS**

10. Under OAR 660-004-0010(3) and OAR 660-004-0018(1), an exception to one goal or portion of one goal does not assure compliance with or relieve a jurisdiction from the remaining goal requirements. Each statewide planning goal is examined for compliance.
11. 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.

Applicant's proposal is examined under Goal 2 plan amendment requirements. As part of the goal, each plan and related implementation measure is 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. The Planning Division notified Marion County departments and DLCD of the proposed comprehensive plan amendment. MCPW provided requirements and an advisory. The county tax office submitted tax information on the property. The BOC will evaluate Goal 2 exception criteria and consider agency comments in evaluating this application. Goal 2 will be satisfied.

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

Applicant requests an exception to Goal 3. The result of the exception request will determine whether Goal 3 will 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 and surrounding properties are not MCCP-identified forest lands. 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.

No significant particulate discharges are anticipated. Goal 6 is met.

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

The subject property is not in an MCCP-identified floodplain or geologically hazardous overlay zone 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 property 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 UGBs. 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 existing improvements and current use are served by adequate public utilities and services, and the proposed use will not add additional strain to the existing facilities infrastructure. Goal 11 is met.

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

OAR 660-012-0060 implements Goal 12. 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.

Access to the subject property is provided by Portland Road NE, also known as Oregon State Highway 99E, though Applicant states that students will park at the Brooks Campus and walk to the subject property for classes. Applicant does not propose changing the functional classification of any road or standards implementing them. Goal 12 is met.

Goal 13: Energy Conservation. To conserve energy.

The proposed use will not significantly impact 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.

The proposed use will take place within an existing structure, will not create the need for urban services, and will not rely on urban facilities. The use does not increase urbanization. Goal 14 is satisfied.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources. The subject property is not within the



Willamette River Greenway, or near any ocean or coastal-related resources. These goals do not apply.

12. **Applicant has proven that all applicable Statewide Planning Goals are met.**

## **ZONE CHANGE**

13. 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.
14. The proposed IUC zone is appropriate for the Industrial MCCP designation 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. MCC 17.123.060(A) is met.
15. Surrounding properties to the north and northeast are zoned CC and are developed with commercial uses. Property to the south and southeast is zoned EFU and is in farm use. Property to the west is zoned P and is developed with the Chemeketa Community College Brooks Campus. The subject property is within the urban unincorporated community of Brooks-Hopmere, a community which is rural exception land to which Goals 3 and 4 no longer apply. The Planning Director found that Applicant's proposed diesel engine repair educational program is similar to permitted uses in the IUC zone, and is consistent with the Brooks-Hopmere Community Plan land use planning considerations and development standards. The proposed use will occur within existing improvements and will not have a significant adverse effect on surrounding properties. Applicant stated that there is a possibility that the proposed use will support the neighboring agricultural and industrial uses in the future by providing repair and

maintenance facilities for associated equipment and machinery. The proposed zone change is appropriate considering the surrounding land uses and the density and pattern of development in the area. MCC 17.123.060(B) is met.

16. The existing improvements and current use are served by public utilities and services. The subject property abuts Portland Road NE, and the proposed use is not anticipated to increase the number of trips generated by the property. There are adequate public facilities, services, and transportation networks in place. MCC 17.123.060(C) is met.
17. The subject property is adjacent to the Brooks Campus. Applicant attempted to find other properties in the area that do not necessitate additional land use approval and that provide similar ease of use but was unable to locate any. Applicant provided testimony in the record that the college looked at multiple sites where this proposed diesel repair program could be located, but none compared with the subject property. The primary draw of the property is that it is directly adjacent to the Brooks Campus and can be connected to that campus. In addition, administrative support, student services, and parking are already established at the Brooks Campus. MCC 17.123.060(D) is met.
18. The IUC zone is the only zone appropriate for the Industrial land use designation in unincorporated communities. The Planning Director has determined that the proposed use is “of the same general type” as other permitted uses in the IUC zone. While the proposed use is different from the current use, it is not more intensive than other uses permitted outright within the IUC Zone. MCC 17.123.060(E) is met.
19. **Applicant has satisfied all MCC 17.123.060 requirements and zone change approval is recommended.**

## VI. Decision

It is hereby found that Applicant has met the burden of proving that criteria for a zone change from IUC-LU to IUC, for taking an exception to Goal 3, and for amending the MCCP have been met. The Board of Commissioners **APPROVES** the proposal.

# **EXHIBIT B**

The Marion County Board of Commissioners adopts the following conditions in ZC/CP 20-001:

1. Prior to establishing any industrial uses and prior to application for building permits, Applicant shall apply for review of onsite sewage treatment capacity.
2. Prior to establishing any industrial uses that use water in the manufacturing process and prior to application for building permits, Applicant shall review sewer capacity and submit evidence that the Brooks Community Sewer System will serve the new use.
3. Applicant shall implement erosion control measures in conjunction with any fill work needed for the proposed ramp, and in support of that, shall execute a no-cost MCPW Engineering Erosion Control Acknowledgement Form.

# EXHIBIT C

The following described property is rezoned from IUC-LU (UNINCOPORATED COMMUNITY INDUSTRIAL - LIMITED USE) to IUC (UNINCOPORATED COMMUNITY INDUSTRIAL).  
ZC/CP 20-001/Chemeketa Community College and A&S Real Estate Management, LLC.

