

County Commissioners

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MARION COUNTY PUBLIC WORKS**MEMORANDUM**

TO: Marion County Hearings Officer
FROM: Marion County Planning Division/Speckman
DATE: May 8, 2024
SUBJECT: Zone Change 25-002/Creative Electric LLC

The Marion County Planning Division has reviewed the above-referenced application and offers the following comments.

FACTS:

1. Creative Electric LLC proposes to change the zone from UT-5 (Urban Transition) to CG (Commercial General) on a 5.02-acre property located in the 900 block of S Pacific Hwy 99E, Woodburn, (T5S; R1W; Section 19A; Tax lot 1800). The subject property is within the Woodburn Urban Growth Boundary (UGB) and designated Commercial in the Woodburn Comprehensive Plan. The property is currently under the zoning jurisdiction of Marion County. The applicant proposes to establish an electrical contractor business on the subject parcel, moved from its current location in Clackamas County.

2. The subject property is located south of the City of Woodburn on the west side of Highway 99E, off Novaya Ln NE. It is a currently vacant field that was previously farmed. The property consists of three parcels created by Partition recorded in 1989 and approved by Partition case (P88-061). These parcels are all parts of tax lot 1800. Having been created in the current configuration by an approved partition, the subject property is legal for land use purposes.

3. Adjacent properties to the north, and south are zoned UT-5 and within Woodburn's UGB. The northern adjacent parcel is in farm use and contains a homesite. The northeastern adjacent parcel is in rural residential use. The south adjacent parcel is a pre-existing non-conforming auto wrecking yard. To the east, across Highway 99E and outside of the UGB, are parcels zoned Exclusive Farm Use (EFU) and in active farm use. To the west of the subject parcel, outside of the UGB, is the Belle Passi Cemetery which is in a Public (P) zone.

COMMENTS:

4. Marion County Planning requested comments from various agencies. Those comments provided are included as follows in this section.

Marion County Building Inspection commented: "No Building Inspection concerns. Permit(s) are required to be obtained prior to any development and/or utilities installation on private property."

Marion County Septic Division commented: “A Site Evaluation followed by an installation-Construction permit is required prior to site development.”

Marion County Land Development Engineering and Permits (LDEP) submitted the following:

ENGINEERING ADVISORIES

- A. PW Engineering has no action items for the proposed Zone Change itself.
- B. The following are PW Engineering advisories for future development:
 - The plat for partitioning case P88-61 pertaining to the subject property is depicted on MCSR 031947 and recorded at Reel 732 / Page 127 in the Clerks records for Marion County. The plat created the private easement named ‘Novya Lane’ along the south property from S Pacific Hwy 99E, a State Hwy. An access approach to Novya Lane does not appear to have been constructed.
 - The proposed access location in the middle of the subject property does not align with Novya Lane. At the time of application for building permits, Applicant will be required to confirm application having been made for an ODOT approach permit.
 - County Transportation System Development Charges (SDCs) will be assessed at the time of application for building permits.
 - Development of the property as generally depicted on the land use application site plan will require stormwater detention meeting county standards, and possibly also to ODOT standards that could include water quality treatment if discharging to the State Hwy.
 - DEQ has jurisdiction over construction erosion for total ground disturbances of 1-acre plus.
 - Fire turnaround and pullout easement(s) may be required by the local fire district or State Fire Marshal.

Oregon Department of Transportation (ODOT) commented: “We do not have any comments on the zone change, however we will have comments on future applications for development of the property with respect to frontage improvements and access considerations.”

The City of Woodburn Community Planning and Development Department submitted two letters explaining how the proposal is not consistent with either Woodburn Comprehensive Plan or the Woodburn/Marion County Urban Growth Coordination Agreement (UGCA). These letters can both be found in the case file. The primary concerns are summarized below:

The subject property is zoned Urban Transition 5-acre minimum (UT-5) because it is within the UGB and not yet eligible for annexation. The urban growth area is a transitional area for properties that have not yet been annexed. Annexation is required prior to urban development with an urban level of public improvements to Woodburn standards.

The proposal fails to meet several material standards such as frontage improvements, gravel parking and potential outdoor storage. The proposal fails to comply with policies in the 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement (UGCA). These specific policies are Section 1. Policies 4, 7, & 9. The proposal fails to comply with Woodburn’s Comprehensive plan. The specific Comprehensive Plan goals and policies include: G-1, P1.12, 1.14, 1.17, & 1.18.

The current zoning is appropriate for the parcel until such time that it can be annexed into the city and urban uses established. The subject property is not yet eligible for annexation because it is not adjacent to city limits.

All other agencies either failed to comment or stated no comment on the proposal.

STAFF FINDINGS AND ANALYSIS:

5. According to the 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement (UGCA), the following applies to the question of jurisdiction: “The County shall retain responsibility for regulating land use on lands within the Urban Growth Area until such lands are annexed by the City. The City and County identify the Urban Growth Area as urbanizable and available over time for Urban Development.”

6. The UT (Urban Transition) zone purpose statement listed under MCC 16.13.000 states:

The UT (urban transition) zone is intended to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not have available urban facilities such as sanitary sewer, water, drainage and streets. The zone allows the continuation of legally established uses and establishment of uses compatible with the plan designation. In areas planned for development relying on urban services, transitional uses may be allowed which will not interfere with the efficient, later use of the land for planned urban uses.

The zone is appropriate in areas designated in the applicable urban area comprehensive plan for future urban residential development, but may also be used to protect lands designated for future commercial, industrial or public uses. In areas designated for urban residential development, the residential density included in the zone is intended to be consistent with the average lot size of the immediate area. In areas planned for other uses, the zone is intended to retain lot sizes conducive to efficient development of planned uses and prevent conflicts associated with development of additional dwellings.

The zone is also intended to encourage the continued practice of commercial agriculture in areas planned for future urban development. The UT zone is intended to be a farm zone consistent with ORS 215.203.

The subject property is within the Urban Growth Boundary for the City of Woodburn. The subject property is not adjacent to lands that have been annexed by Woodburn and is therefore unable to annex into the city and/or connect to city water and sewer services at this time. It remains in a transitional zone until such time that it annexes. The subject property is currently undeveloped and available for farm uses. Images from 2023 on Google streetview show harvested bales of hay on the property. Images from 2016 on Google streetview show row crops on the property. The UT zone is intended to encourage the continued practice of agriculture in areas planned for future urban development. Other permitted uses in the UT zone are outlined in MCC 16.13.010. Conditional uses in the UT zone are outlined in MCC 16.13.020.

The current Urban Transition zone is intended to retain and protect the subject parcel for further urban development upon annexation into the City of Woodburn. The City of Woodburn Comprehensive Plan designated the subject parcel Commercial. As a conditional use in the Urban Transition zone, uses allowed within the most restrictive corresponding zone may be established. The most restrictive zone in Marion County Code that corresponds with the Commercial designation in Woodburn’s Comprehensive Plan is CO (Commercial Office) in MCC 16.05.

MCC 16.01.030 explains how urban zones are classified, specifically stating, “The zone classifications below are listed in order of most restrictive to least restrictive under the appropriate plan designation.” For the comprehensive plan designation of Commercial, the zone classification list (in order of most restrictive to least restrictive) is, “CO, CR, CG, HC, UT, UD”.

The applicant proposes a zone change to CG (Commercial General) because the proposed use is an electrical contractor shop which is neither a permitted nor conditional use in the UT zone. It is likewise neither a permitted nor conditional use in the CO zone which is the most restrictive corresponding zone. Therefore, the use could not be applied for as a conditional use in the UT zone under MCC 16.13.020(Q).

Within the Urban Growth Coordination Agreement (UGCA) between the City of Woodburn and Marion County is the requirement to annex upon establishment of an urban use. This requirement is mirrored in Woodburn’s Comprehensive Plan. The applicant representative asserts that the proposed use of the property as an electrical contractor shop is separate from the proposal to change the zone of the subject parcel, and that the zone change is not an urban use. The applicant representative suggests that the policies in the UGCA and Woodburn Comprehensive Plan regarding establishment of urban uses therefore do not apply to the subject parcel.

As discussed in more detail below (section 7.D) the interpretation that delineates between this application and the proposed use of the subject parcel would, if adopted, result in a proposal that cannot meet the Marion County’s criteria for a zone change. Consideration of every allowed use in the CG zone would be required. Many of the uses allowed in the CG zone would not be appropriate on a parcel that has no public services available and is not eligible for annexation. It is only when we consider the applicant’s planned use, and implement the applicant’s proposed condition of approval limiting the parcel to only SIC 1731 for an electrical contractor’s shop, that the zone change criteria in MCC 16.39.050 could be satisfied.

Staff seeks to implement the most practical interpretation of the application, and sees the acknowledgement of the planned use of the subject property post-zone change as the most reasonable interpretation for satisfaction of the criteria. An application to zone change the subject property to Commercial General without a use to be considered, would not be approvable.

7. Under Marion County Code (MCC) 16.39.050, approval of a 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 description and policies for the applicable Comprehensive Plan land use classification.*

The proposed zone is appropriate for the underlying comprehensive plan designation of Commercial. Marion County and Woodburn both have Commercial General zones that would be appropriate for the underlying comprehensive plan designation of Commercial. The applicant compared the two jurisdictions’ Commercial General codes and found that Marion County’s is consistent with the regulations of Woodburn’s version of this zone. In Woodburn’s version of CG, outdoor storage for contractor shops is not permitted. The

applicant offered a condition of approval limiting outdoor storage to comply with Woodburn's version of CG. However, as discussed below, the proposed zone change is not consistent with the Growth Management Goals and Policies of Woodburn's Comprehensive Plan. The criterion is not met.

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

The subject parcel is adjacent to Highway 99E. The applicant submitted a letter from registered transportation engineer Chris Clemhow explaining that a detailed transportation analysis is not required for the proposed zone change and use as an electrical contractor's shop. The letter asserts that the trips generated by the proposed use are already accounted for considering the commercial designation in Woodburn's comprehensive plan, and Marion County's Transportation System Plan.

There are neither water nor sewer facilities extended to the subject parcel. The use of the subject parcel for a for an electrical contractor's shop requires water and sewer services. The City intends on extending water and sewer at the time of annexation.

The subject parcel could theoretically obtain water via a well, and dispose of wastewater via a septic system. The applications for a commercial well and installation of a septic system on the parcel would both require the City of Woodburn's approval by way of a signed Land Use Compatibility Statement (LUCS). The City of Woodburn does not approve new uses developing on well and septic within the UGB, and requires annexation for urban uses being established within the UGB.

Development of the parcel with an urban use is not currently possible without the ability to have either public or private water and sewage facilities. The applicant has not shown that adequate public facilities are in place or are planned to be provided concurrently with the development of the property. The criterion is not met.

C. The request shall be consistent with the purpose statement for the proposed zone.

The CG (Commercial General) zone purpose statement listed under MCC 16.07.000 states:

The purpose of the CG (commercial general) zone is to provide areas suitable for warehousing, wholesale commercial sales and services with related outdoor storage or retail sales. The commercial general zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan where the location has access to an arterial street or highway for transport of bulk materials and where impacts associated with permitted uses will not create significant adverse impacts on local streets or residential zones.

The proposed CG zone is appropriate for the underlying Woodburn Comprehensive Plan designation of Commercial. The subject parcel is adjacent to Highway 99E, an area that would be appropriate for warehousing or wholesale commercial sales. The proposed use

as electrical contractor's shop is an approved use in CG as per MCC 16.07.010(A)(3). The location of the subject parcel, and proposed use thereon, are both aligned with the purpose statement of Commercial General in the Marion County Code. Therefore, MCC 16.39.050 (C) is met.

- D. *If the proposed zone allows uses more intensive than uses in other ones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The most restrictive zone appropriate for the Commercial designation is the Commercial Office (CO) zone. The proposed zone change to Commercial General (CG) will allow uses that are more intensive than those allowed in the CO zone. In the UT zone, uses permitted in the most restrictive of the corresponding zones may be allowed with an approved Conditional Use permit. An electrical contractor shop is not permitted in the CO zone either as an outright permitted, or conditional, use.

The applicant has stated that the application for a zone change to CG should be considered separately from the planned electrical contractor shop. As clarified by MCC 16.01.030, the Commercial General (CG) zone allows uses that are more intensive than other zones appropriate for the land use designation such as Commercial Office (CO) and Commercial Retail (CR). Without consideration of the proposed use, the proposed zone change could not satisfy this criterion because it would permit uses that would significantly adversely affect uses on adjacent properties zoned for less intensive uses. Uses permitted within the CG zone include intensive uses such as many kinds of retail stores, hotels, amusement parks, and movie theaters. A zone change permitting such uses could negatively affect farming operations to the north and west, and rural residences northeast of the subject parcel due to non-farm conflicts, significantly increased traffic and potential noise. The application materials, including the traffic statement, are all based around the proposed development of an electrical contractor shop because many of the uses permitted in the CG zone are incompatible with the subject parcel.

The applicant has agreed to a condition of approval that would limit the use of the subject property to an electrical contractor shop. An electrical contractor shop is an outright permitted use in the CG zone as per MCC 16.07.010(3) *Construction contractor's offices and related outdoor storage* (SIC 15, 16, 17). The applicant has also offered a condition of approval to limit storage to inside of the building to comply with Woodburn's version of CG.

An electrical contractor shop is not permitted in either the CO or CR zones. The proposed CG zone limited to only permitting an electrical contractor shop would still allow a more intensive use than other zones appropriate for the land use designation. Evidence in the record does not support the assertion that the proposed zone and proposed use will not significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses. The criterion is not met.

8. The proposal involves land within the Urban Growth Boundary of Woodburn. The 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement (hereafter referred to as the

UGCA) therefore applies to this proposal. The applicable sections of that document are addressed below.

Page 2 in the “whereas” section:

Whereas, the intent of the urban growth program for the City is as follows:

1. *Promote the orderly and efficient conversion of land from Rural/Resource uses to urban uses within the Urban Growth Area.*
2. *Reduce potential conflicts with resource lands, establishing an Urban Reserve Area and Expansion limitations where necessary.*
3. *Promote the retention of lands in resource production in the Urban Growth Boundary until provided with urban service and developed.*
4. *Coordinate growth in accordance with the Woodburn comprehensive Plan and the Marion County Comprehensive Plan.*

The City of Woodburn specifically calls out “whereas” 1-3 as aspects of the UGCA that the proposal does not comply with. Woodburn has stated that they do not find this zone change conducive to an orderly and efficient conversion of land from Rural to Urban uses. Woodburn states that the transition from Rural to Urban uses with the Woodburn UGB should occur as land is annexed into the city and receives urban levels of service. Annexation of the subject property is not possible at this time, and not proposed by the applicant. Staff finds the proposal inconsistent with the intent of the urban growth program outlined in the UGCA and the Woodburn Comprehensive Plan.

Section I. Coordination Policies and Procedures

1. *The County shall retain responsibility for regulating land use on lands within the Urban Growth Area until such lands are annexed by the City. The City and County identify the Urban Growth Area as urbanizable and available over time for urban development.*

The County recognizes this responsibility.

2. *The City and County shall maintain a process providing for an exchange of information and recommendations relating to land use proposals in the Urban Growth Area. The County shall forward land use activities being considered within the Urban Growth Area by the County to the City for comments and recommendations. The City shall respond within twenty (20) days, unless the City requests and the County grants an extension.*

The City was given notice of the application and the opportunity to comment.

3. *Upon receipt of an annexation request or the initiation of annexation proceedings by the City, the City shall forward information regarding the request (including any proposed zone change) to the County for comments and recommendations. The County shall have twenty (20) days to respond unless they request and the City allows additional time to submit comments before the City makes a decision on the annexation proposal.*

The applicant is not requesting annexation.

4. *All land use actions within the Urban Growth Area shall be consistent with the Woodburn Comprehensive Plan and the County's land use regulations.*

The proposal is not consistent with either.

5. *In order to promote consistency and coordination between the City and County, both the City and County shall review and approve amendments of the Woodburn Comprehensive Plan that apply to the Urban Growth Area. Such changes shall be considered first by the City and referred to the County prior to final adoption. If the County approves a proposed amendment to the Woodburn Comprehensive Plan, the change shall be adopted by ordinance and made a part of the County's Plan.*

This policy does not apply to the proposal.

6. *The area outside the Urban Growth Boundary shall be maintained in rural and resource uses consistent with Statewide Planning Goals. The area outside the Urban Growth Boundary designated the Urban Reserve Area shall be subject to the requirements in Section V below.*

This policy does not apply to the proposal.

7. *The City and County shall promote logical and orderly development within the Urban Growth Area in a cost-effective manner. The County shall not allow uses requiring a public facility provided by the City within the Urban Growth Area prior to annexation to the City unless agreed to in writing by the City.*

The proposal is for a zone change which would allow an urban level of uses on the subject property. As explained in Section I.9 below, conversion of land within the Urban Growth Area to urban uses shall occur upon annexation. The applicant is not proposing annexation. The applicant is not proposing connection to public facilities. The applicant is proposing an urban use, without an urban level of services. The proposal is not consistent with this policy.

8. *City sewer and water facilities shall not be extended beyond the Urban Growth Boundary, except as may be agreed to in writing by the City and County, consistent with Oregon Administrative Rules, the Woodburn Comprehensive Plan and the Marion County Comprehensive Plan.*

This policy does not apply to the proposal.

9. *Conversion of land within the Urban Growth Area to urban uses shall occur upon annexation and be based on consideration of applicable annexation policies in the Woodburn Comprehensive Plan.*

The proposed zone change to CG would allow an urban level of uses, without annexation to receive an urban level of service. The Woodburn Comprehensive Plan states, "The County shall not allow urban uses within the Urban Growth Boundary prior to annexation

to the City unless agreed to in writing by the City.” The proposed zone change would make those urban uses allowed in the CG-zone outright permitted on the subject property without those uses being agreed to in writing by the City. The applicant has agreed to a condition of approval that would limit the uses allowed by this zone change to SIC 1731, an electrical contractor shop. This use, SIC 17, is not allowed in CO or CR which are more restrictive urban commercial zones. A zone change to CG is a conversion of land to urban uses. The proposal is not consistent with this policy.

10. *The City shall discourage the extension of public facilities into the Urban Growth Area without annexation. However, if the extension of public facilities into the Urban Growth Area is necessary because of an emergency, health hazard or the City determines it is otherwise desirable, the facilities may be extended subject to terms and conditions contained in a service contract between the City and the property owner.*

This policy does not apply to the proposal.

11. *The City shall be the provider of public water, sanitary sewer and stormwater facilities within the Urban Growth Boundary unless otherwise agreed to by the City, the County, and any other applicable party. The City shall be responsible for preparing the public facilities plan for all lands within the Urban Growth Boundary.*

The proposal is for a zone change which would subsequently allow a use on the property that will require services. The services could theoretically be provided with a private well and onsite septic system. The City’s intention throughout policies in the comprehensive plan and UGCA is to establish public sewer and water as land in the UGB annexes and urbanizes. The City has not indicated any agreement to allow for private well and septic on this parcel within the UGB. Any well or septic system would require the City of Woodburn to sign a Land Use Compatibility Statement (LUCS) approving the development. The proposal is not consistent with this policy.

Section III. Administration of Zoning and Subdivision Regulations

1. *The County shall provide notice and request for comments on conditional uses, variances, adjustments, land divisions, property line adjustments and administrative reviews within the Urban Growth Area to the City at least 20 days before the County's initial evidentiary hearing or land use decision when no hearing is held. The County shall provide the City a notice of decision for all such applications in the Urban Growth Area when requested by the City.*
2. *Applications for uses permitted outright in the applicable County zone, including ministerial actions, will not involve any notice or request for comments to the City.*

The county follows these procedures for conditional uses, variances, adjustments, land divisions, property line adjustments and administrative reviews within the Urban Growth Area. The current proposal is for a Zone Change which does not fall within this regulation. Marion County has, however, followed these procedures in processing this application and notified the City. Woodburn responded with comments that are included in this staff recommendation and the case file. Woodburn will be notified of the public hearing for this recommendation.

3. *The County may require City development standards for development within the Urban Growth Area, including dedication of additional right-of-way or application of special street setbacks when requested by the City. The County may require compliance with City development standards, in lieu of County standards if the development is other than a single-family dwelling.*

The City of Woodburn stated concern that the applicant will not implement the road development standards in the Woodburn Development Ordinance (WDO). The applicant has confirmed that they do not consider the road improvements reasonable under the rough proportionality standard at this time. The applicant representative proposed a non-remonstrance agreement instead that the property owners or successors will not object to the formation of a local improvement district or other public financing mechanizing for the improvements required, and furthermore that the property owner or successor will pay their share for the improvements.

If the application is approved, Staff suggests that right-of-way dedication and road improvements to Woodburn's specifications be a condition of approval prior to issuance of building permits on the subject property.

4. *For development approved under (1) or (2), if public sewer and water facilities or city limits are located within 300 feet of the subject property, the County shall require that the development connect to the facilities under use of wells or other means are allowed in writing by the City. The City will require any property connecting to City sanitary sewer or water facilities to annex to the City. The City shall provide the County information about the location of public sewer and water. The County may approve development of permitted uses on properties more than 300 feet from the city limits, or from a public sewer or water facility using wells and DEQ approved wastewater disposal systems.*

The applicant references this section as applicable to the proposed zone change. It is however only applicable to types of development referenced in (1) or (2) of this subsection of the urban growth coordination agreement. The types of developments referenced in (1) or (2) are all things that would be either outright permitted, permitted subject to review, or require a conditional use permit. This does not apply to developments that are not permitted in any way within the current zone, and require a zone change to establish. The proposed use requires a zone change to an urban zone because it is an urban use. Establishment of urban uses requires annexation as per the UGCA and Woodburn's Comprehensive Plan.

5. *If a proposed use is not specifically identified in the Marion County Urban Zone Code, and the County is proposing an interpretation classifying the use as permitted in the applicable zone under the interpretation provisions of the Zone Code, the County shall give the City an opportunity to comment before the County makes a final land use decision.*

The applicant is seeking a zone change to CG, so that they may establish a use outright permitted in the CG zone. No interpretation of the use is required.

9. Woodburn Comprehensive Plan Goals apply to the proposal.
Marion County Coordination Goals and Policies

C-1. To coordinate with Marion County regarding planning issues that extend beyond the boundaries of the City of Woodburn, including population allocations, amendments to acknowledged comprehensive plans and transportation system plans, and achievement of a compact urban growth form, as required by Statewide Planning Goals 2 (Land Use Planning and Coordination), 12 (Transportation) and 14 (Urbanization).

Woodburn has coordinated with Marion County regarding planning issues beyond city limits by working together to create the 2015 UGCA, and communicating regarding land use applications within the UGB such as this one.

C-1.1 Marion County Framework Plan goals, policies and guidelines will be considered when the City considers plan amendments that require Marion County concurrence.

This policy does not apply to the proposal.

C-1.2 The City of Woodburn shall have primary responsibility to plan for community growth within its Urban Growth Boundary, and recognizes its responsibility to coordinate with Marion County to ensure the efficient use of urbanizable land within the Woodburn Urban Growth Boundary.

Marion County recognized this goal with the 2015 UGCA. Woodburn has coordinated with Marion County and the applicant to discuss this project. Woodburn submitted comments explaining that the proposal is not consistent with their comprehensive plan or the 2015 UGCA.

Commercial Lands Goals and Policies

During the 1990s, Woodburn experienced large-scale commercial growth near Interstate 5. Although commercial development has provided jobs for many Woodburn residents, this growth has contributed to congestion at the 1-5/Highway 214 Interchange, which has constrained the City's ability to attract basic industrial employment that requires 1-5 access. Woodburn will encourage infill and redevelopment of existing commercial sites, and will encourage neighborhood-serving commercial developments in Nodal Development areas.

F-1. Identify, promote, and regulate to bring about urban infill and redevelopment of existing commercial areas within the community, as well as development of neighborhood nodes, to meet future development needs, support potential additional housing, and reduce traffic congestion and reliance on motor vehicles for basic commercial services.

This policy does not apply to the proposal.

F-1.1 The City should at all times have sufficient land to accommodate the retail needs of the City and the surrounding market area while encouraging commercial infill and redevelopment. The City presently has five major commercial areas: Highway 99E, 1-5 Interchange, the downtown area, the Nodal Neighborhood Commercial area (along Parr Road), and the 214/211/99E Four Corners intersection area. No new areas should be established.

This policy does not apply to the proposal.

F-1.8 Ensure that existing commercial sites are used efficiently. Consider the potential for reuse, re-tenanting, or redevelopment of existing commercial sites and modifications to zoning regulations that urbanize development to attract new investment.

This policy does not apply to the proposal.

Workforce and Target Industry Development

F-2 Enhance the quality of the city workforce and support development of target industries.

The applicant points out that the construction sector is identified as a target industry in the City of Woodburn's Economic Opportunities Analysis (EOA). The proposed zone change would allow the applicant to move their base of operations to the subject property. The subject property is designated Commercial in the Woodburn Comprehensive Plan, and therefore appropriate for the proposed CG zone. The use for an electrical contractor shop is permitted in both Marion County and Woodburn's versions of the Commercial General zone. The city's workforce would be enhanced by approximately 15 electrician positions required by Creative Electric, as well as several support staff. These are high-paying trade jobs that would be created within Woodburn's UGB. The proposal is consistent with this policy.

Growth Management Goals and Policies

G-1.1 The City's goal is to manage growth in a balanced, orderly, and efficient manner, consistent with the City's coordinated population projection.

The proposal is for a zone change to a zone that matches the underlying designation in the Woodburn Comprehensive Plan. The applicant has offered several conditions of approval that would ensure future annexation of the property, future connection to public water and sewer, and future contributions towards frontage improvements. The City of Woodburn does not extend urban services without either annexation, or written agreement, as outlined in the UGCA and their Comprehensive Plan. Annexation is not currently possible because the subject property is not adjacent to land in the City of Woodburn. The proposal is not consistent with this goal.

G-1.7 The City's policy is to accommodate industrial and commercial growth consistent with Woodburn Economic Opportunities Analysis (EOA).

The applicant attests that the proposal is consistent with the EOA. The construction industry is listed as a target industry on page 21 of the 2023 EOA. More details are provided on page 26 of the EOA. The proposal is consistent with this policy.

G-1.8 Woodburn's policy is to diversify the local economy. Woodburn seeks to diversify the local economy so that the community will prosper and can weather swings in the business cycle, seasonal fluctuations, and other economic variables. The intent is to provide a broad spectrum of commercial and industrial enterprises. The variety of enterprises will not only provide insulation from negative business factors, but a choice in employment opportunities that in turn allows for the diversification in income types.

The applicant attests that the establishment of the electrical contractor's shop, as a result of the proposed zone change, will employ approximately 15 electricians and several administrative staff. The City of Woodburn did not comment on whether they consider the proposal a means to diversification of the local economy. The proposal is consistent with this policy.

G-1.12 The County shall retain responsibility for regulating land use on lands within the urban growth area (unincorporated land inside the UGB) until such lands are annexed by the City. The urban growth area has been identified by the City as urbanizable and is considered to be available, over time, for urban development.

The County retains this responsibility. The subject parcel is not yet eligible for annexation, which is a requirement for urbanization. The current zoning, Urban Transition, is a transitional zone that permits continuation of pre-existing or resource uses between the time a property is brought within an Urban Growth Boundary and the time it is annexed into the city. The proposed zone change is to an urban zone, for the purpose of establishing an urban use, without annexation as required by the UGCA and the Woodburn Comprehensive Plan. The proposal is not consistent with this policy.

G-1.13 The City and County shall maintain a process providing for an exchange of information and recommendations relating to land use proposals in the urban growth area. Land use activities being considered within the urban growth area by the County shall be forwarded by the County to the City for comments and recommendations.

This process of information exchange is established.

G-1.14 All land use actions within the urban growth area and outside the City limits shall be consistent with the City's Comprehensive Plan and the County's land use regulations.

The proposed zone change is not consistent with the Woodburn Comprehensive Plan and does not satisfy the zone change criteria in Marion County Code. The proposal is not consistent with this policy.

G-1.17 The City and County shall strive to enhance the livability and promote logical and orderly development of the urban growth area in a cost effective manner. The County shall not allow urban uses within the Urban Growth Boundary prior to annexation to the City unless agreed to in writing by the City. City sewer and water facilities shall not be extended beyond the City limits, except as may be agreed to in writing by the City and the property owner and the owner consents to annex. The City shall be responsible for preparing the public facilities plan.

The proposed zone change, and subsequent use, are consistent with the underlying designation in the City of Woodburn Comprehensive Plan. The proposed zone change is in order to establish an urban use and therefore requires annexation. The proposal is not consistent with this policy.

G-1.18 Conversion of land within the boundary to urban uses shall be based on a consideration of:

- (a) *Orderly, economic provision for public facilities and services;*

The applicant proposed a condition requiring an agreement to utilize public facilities and services once available. The City will not approve a new use relying on well and septic in the UGB. The city plans to provide services at the time of annexation. The subject parcel is not eligible for annexation.

(b) Availability of sufficient land for the various uses to ensure choices in the market place;

The proposal is for a zone change to a zone that is consistent with the Woodburn Comprehensive Plan designation for this property. Establishment of urban use requires annexation. The subject parcel is not eligible for annexation. The proposal will not increase the availability of land for various urban uses until such time that it annexes into the City of Woodburn.

(c) LCDC Goals;

The LCDC Goals applicable to this proposal are considered in the next section of this document (10). The proposal is not consistent with Goal 14.

(d) Further development of vacant and underutilized residential land within the City's buildable land inventory before annexing additional territory for conversion to residential use at urban densities; and

This subsection does not apply to the proposal.

(e) Applicable provisions of the Marion County and City Comprehensive Plans.

The proposal fails to fully comply with Marion County Code and the City of Woodburn Comprehensive Plan. The proposed zone change is to an urban zone for the establishment of an urban use. Annexation is not possible at this time. The City of Woodburn has stated that the proposal is not consistent with their comprehensive plan. Staff finds that the proposal is not consistent with the Woodburn Comprehensive Plan.

10. Marion County Planning staff considered the relevant Oregon Planning Goals:

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 base for such decisions and actions.

The process for evaluating the proposed zone change is outlined in MCC 16.39.050 and addressed above in sections 7 through 10 of this staff report. This process implements policy frameworks of the Marion County Code, the underlying City of Woodburn comprehensive plan, and the 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement. The process also allows the opportunity for public comment and requires review by a hearings officer. Therefore, the planning process is consistent with Goal 2 – Land Use Planning.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

The subject property of the proposed zone change is adjacent to Highway 99E, which is classified as an Arterial road. The proposed zone is appropriate for citing adjacent to a highway. The applicant provided a letter from a registered Transportation Engineer stating the proposal will generate trips that are already accounted for within current Transportation Systems Plan for Marion County. Therefore, the proposed zone change is compatible with Goal 12 – Transportation.

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 zone change to Commercial General under Marion County is not consistent with the Growth Management Goals and Policies of the Woodburn Comprehensive Plan. The proposed zone change is not consistent with the 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement. The above referenced agreement between Woodburn and Marion County ensures the orderly and efficient transition from rural to urban land uses within the urban growth boundary for Woodburn. The proposal is not consistent with the contents of that agreement. The subject parcel is not eligible for annexation and has no public water nor sanitary sewer services available. The proposed zone change would permit urban uses without an urban level of services available. Therefore, the proposal is not consistent with Goal 14.

CONCLUSION:

11. In conclusion, Staff finds the proposal does not meet the criteria required for a zone change in Marion County Code. Staff finds the proposal is not consistent with the policies of Woodburn's Comprehensive Plan. Staff finds the proposal is not consistent with the policies of the 2015 City of Woodburn/Marion County Urban Growth Coordination Agreement. Staff finds the proposal is not consistent with Statewide Land Use Planning Goal 14.
12. Marion County Planning Staff recommends DENIAL of the proposal. Should the Hearings Officer grant the applicant's request for the change in zone from UT-5 to CG, the Planning Division recommends the following conditions be applied:
 - A. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
 - B. The applicant shall meet the requirements of MCC 16.07.250 and MCC 16.07.100, which also includes MCC 16.30.220. These sections require landscaping, screening of outdoor storage areas, and appropriate exterior lighting for parking and storage areas that is directed away from adjacent residential properties.
 - C. All current and future development on the property must satisfy the specific development standards in the CG zone (MCC 16.07.000) and the general development standards found in Chapters 16.26.00 through 16.40.00 of the MCC.

- D. The applicant shall record an agreement ensuring that neither it nor its successors will object to annexation.
- E. The applicant shall record an agreement ensuring that either it or its successors will connect to city water and sewer when it is available at the Subject Property.
- F. The applicant shall dedicate right-of-way on the frontage of the subject parcel to the standards of Woodburn and/or Oregon Department of Transportation.
- G. The applicant shall complete road improvements to Woodburn's specifications prior to issuance of building permits on the subject property. Evidence in the form of a completion letter from the City of Woodburn Public Works office shall be provided to Marion County Planning.
- H. The applicant shall pave the driveway and five proposed parking spaces consistent with the requirements of the Woodburn Development Ordinance (WDO)
- I. The applicant shall continuously ensure that storage of service vehicles on the property shall be inside a structure.
- J. The applicant shall provide evidence to Marion County Planning that the parcels making up this property have been combined with a single perimeter description large enough to house the proposed electrical contractor shop.
- K. A limited use overlay shall be implemented on the subject parcel to only permit SIC 1731 (an electrical contractor shop in the 1987 Standard Industrial Classification Manual) which is called out as a part of MCC 16.07.010(A)(3).