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503-588-6173*

DECISION OF THE HEARINGS OFFICER

ZONE CHANGE CASE NO.: ZC23-01

APPLICATION NO.: 23-117088-PLN

NOTICE OF DECISION DATE: November 9, 2023

SUMMARY: A zone change to realign the boundaries between MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones along the center line of a private street on a single unit of land.

REQUEST: A quasi-judicial zone change to realign the boundaries between MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones along the center line of a private street on a single unit of land. The subject property is approximately 24.66 acres in size, zoned MU-II (Mixed Use-II) and MU-III (Mixed Use-III) and located at the southwest corner of the intersection of Kuebler Boulevard and I-5 (Marion County Assessor Map and Tax Lot Number: 083W12C /2201).

APPLICANT: Boone Road Commercial LLC (Douglas Sproul, Thomas Wettlaufer)

LOCATION: 2900 Block of Kuebler Blvd SE, Salem OR 97302

CRITERIA: Salem Revised Code (SRC) Chapters 265.005 (e) – Quasi-Judicial Zone Changes

FINDINGS: The findings are in the attached Decision dated November 6, 2023.

DECISION: The **Hearings Officer APPROVED** Zone Change Case No. ZC23-01 subject to the following conditions of approval:

Condition 1: The subject property must meet all conditions of approval imposed by CPC-ZC21-04.

The rights granted by the attached decision do not expire.

Application Deemed Complete:	<u>October 3, 2023</u>
Public Hearing Date:	<u>October 25, 2023</u>
Notice of Decision Mailing Date:	<u>November 9, 2023</u>
Decision Effective Date:	<u>November 28, 2023</u>

Case Manager: Jacob Brown, jrbrown@cityofsalem.net, (503) 540-2347

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Monday, November 27, 2023. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 265. The

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



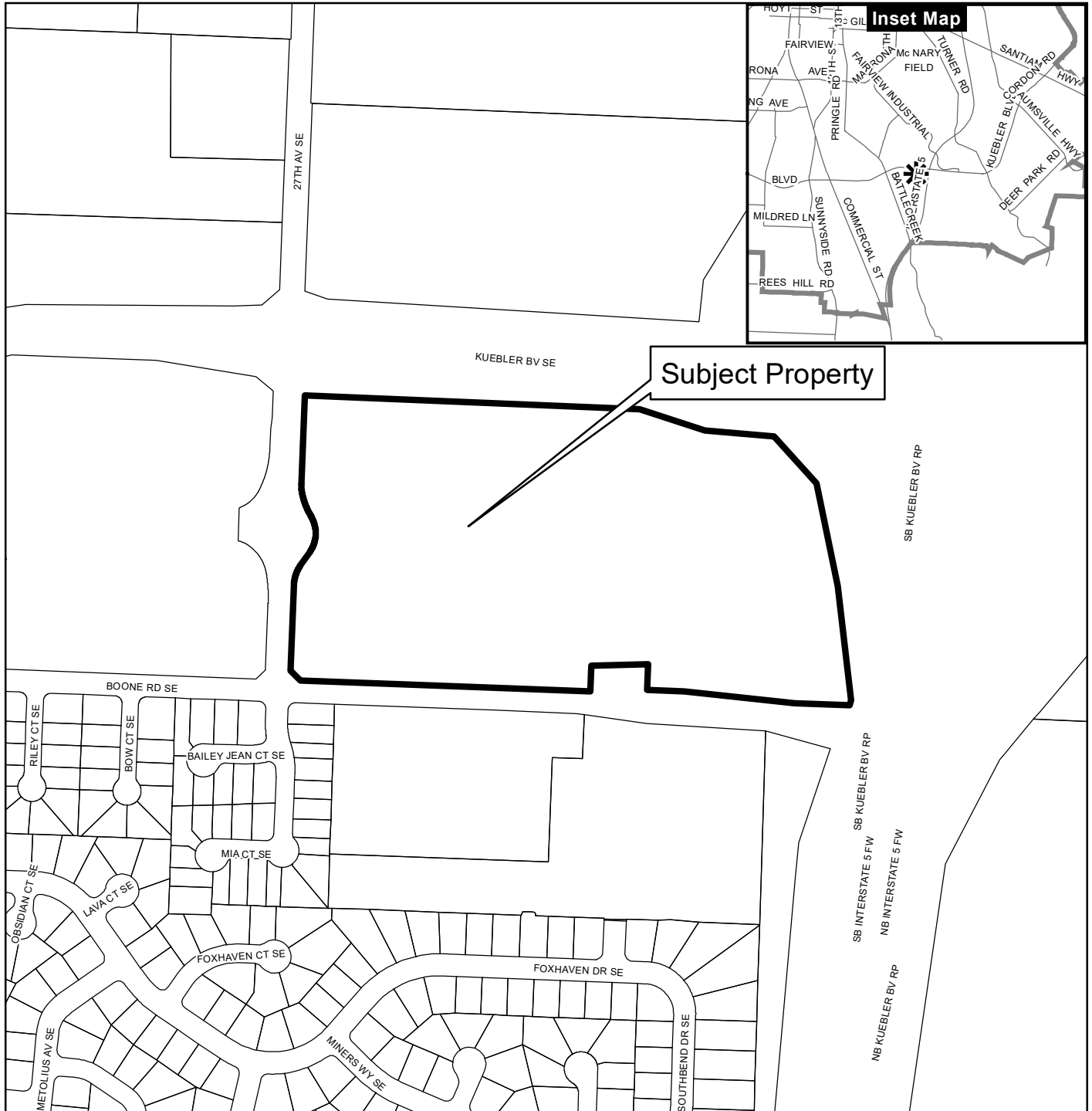
appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

Vicinity Map

2900 Block Kuebler BLVD SE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

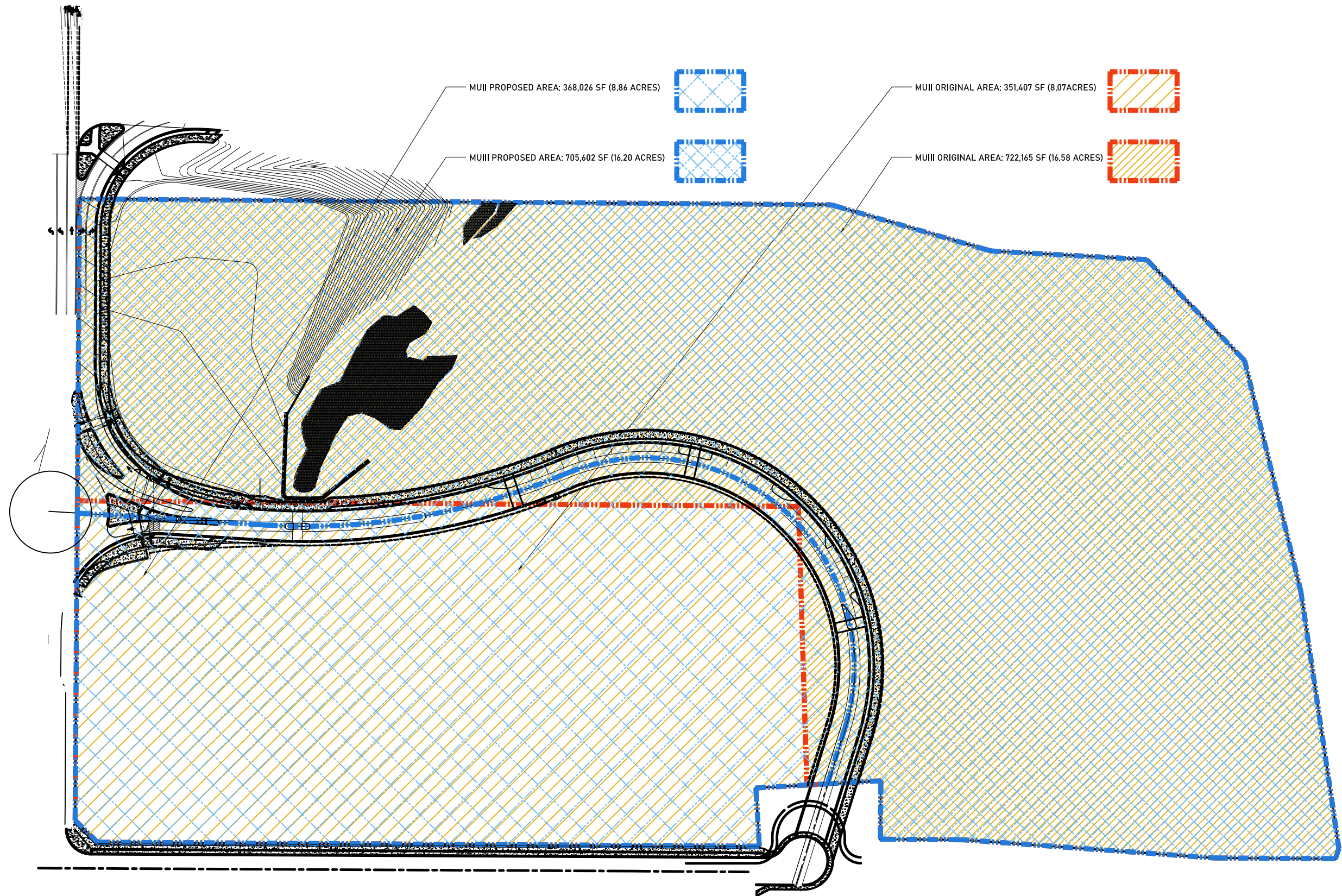
Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A ZONE CHANGE TO REALIGN THE BOUNDARIES BETWEEN MU-II (MIXED USE-II) AND MU-III (MIXED USE-III) ZONES ALONG THE CENTER LINE OF A PRIVATE STREET ON A SINGLE UNIT OF LAND; 2900 BLOCK OF KUEBLER BLVD SE AMANDA NO.: 23-117088-PLN	} } } } } } }	ZC23-01 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

On October 25th, 2023, at 5:30 p.m., a properly noticed hearing was held before the City of Salem Hearings Officer at Room 305, Civic Center, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Jacob Brown, Planner I
<u>Neighborhood Association:</u>	No appearance.
<u>Proponents:</u>	Britany Randal, Brand Land Use, on behalf of Boone Road Commercial.
<u>Opponents:</u>	None.

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on October 25th, 2023, regarding the Applicant's request. During the hearing, Jacob Brown requested that the Staff Report and presentation be entered into the Record, and the Hearings Officer granted the request. Prior to the close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

The Staff Report, Staff presentation and Applicant's presentation provided the following uncontested statements:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) Designation

The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Mixed Use."

A recent comprehensive and zone change processed under CPC-ZC21-04 changed the Comprehensive Plan designation of the subject property from "Single Family Residential" to "Mixed Use" and the zoning from RA (Residential Agriculture) to MU-II and MU-III.

The proposal is largely a housekeeping item, to realign the boundaries of the existing zones to a proposed centerline of a private street. The location of the private street changed slightly from the previous application due to the topography and natural features on the site, and the proposal would eliminate relatively small, isolated areas that would have a different zone than the adjoining property on that side of the private street. Because the proposed MU-II and MU-III zoning are both consistent with the "Mixed Use" Comprehensive Plan designation, a concurrent Comprehensive Plan Map Amendment is not required for this zone change request.

The Comprehensive Plan designations of surrounding properties include:

North:	Across Kuebler Boulevard SE – Commercial
South:	Across Boone Road SE – Single Family Residential/Multi-Family Residential
East:	Across Interstate 5 – Industrial
West:	Across 27 th Avenue SE – Commercial

The Salem Area Comprehensive Plan is a long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses, public facilities, and services that meets the needs of present and future residents of the Salem urban area.

Salem Transportation System Plan (TSP): The TSP uses a Street Classification System to determine the functional classification of each street within the City's street system. The subject property is abutted by a designated Collector Street to the west (27th Avenue SE). Kuebler Boulevard SE, a designated Parkway, runs along the north property boundary. Right-of-way for the Interstate 5 (I-5) freeway and interchange ramps form part of the eastern boundary of the site. Lastly, Boone Road SE, which is a local street, runs along the southern portion of the property.

Neighborhood Plan: The subject property is within the boundary of the South Gateway Neighborhood Association (SGNA), which does not have an adopted neighborhood plan.

2. Zoning of Surrounding Properties

The subject property is currently zoned MU-II (Mixed Use-II) and MU-III (Mixed Use-III).

The zoning of surrounding properties is described as follows:

North: Across Kuebler Boulevard SE – Retail Commercial (CR)
South: Across Boone Road SE – Single Family Residential (RS) /Multiple Family Residential (RM-II)
East: Across Interstate 5 – General Industrial (IG)
West: Across 27th Avenue SE – Retail Commercial (CR)

3. Neighborhood Association and Citizen Comments

The subject property is located within the boundaries of South Gateway Neighborhood Association (SGNA) and abuts Morningside Neighborhood Association (MNA) and Southeast Mill Creek Association (SEMCA).

Applicant Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), land use applications included in this proposed, consolidated land use application request require neighborhood association contact. Notice was provided on August 14, 2023, to the neighborhood associations via email.

Neighborhood Association Comment: Notice of the application was provided to SGNA, MNA, and SEMCA pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. As of the close of the hearing and record, no comments were received from the neighborhood associations.

Homeowners Association: The subject property is not located within a Homeowners Association.

Public Comment: Notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. No public comment was received during the comment period or at the public hearing.

4. City Department Comments

Public Works Department - Reviewed the proposal and indicated no concerns.

Building and Safety Division - Reviewed the proposal and indicated no concerns.

Fire Department - Reviewed the proposal and indicated no concerns with the zone

change request, and stated that items including fire department access and water supply will be required at the time of development.

5. Public Agency and Private Service Provider Comments

Oregon Department of Aviation (ODAV)- Commented and noted that in accordance with FAR 77.9 and OAR 738-070-0060, future development of this site will be required to undergo aeronautical evaluations by the Federal Aviation Administration (FAA) and ODAV. This process is initiated by the applicant providing separate notices to FAA and ODAV and will need to be completed prior to the approval of any building permits. In addition, depending on the proposed location of buildings and other structures, ODAV may advocate for height limitations on future development at the site.

6. Criteria for Granting a Quasi-Judicial Zone Change

The following analysis addresses the proposed zone change for the subject property currently zoned MU-II (Mixed Use-II) and MU-III (Mixed Use-III).

SRC Chapter 265.005 provides the criteria for approval for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial Zone Map amendment request, the review authority must make findings based on evidence provided by the applicant demonstrating that all of the following criteria and factors are satisfied. The extent of the consideration given to the various factors set forth below will depend on the degree of impact of the proposed change, and the greater the impact of a proposal on the area, the greater is the burden on the applicant to demonstrate that, in weighing all the factors, the zone change is appropriate. The Hearings Officer notes that the degree of impact of the proposed change is very low in this case, where the changes are interior to a development site and consistent with the existing Comprehensive Plan designation, and the Hearings Officer will weigh the evidence in the record with that in mind.

The applicable criteria and factors are stated below in **bold** print. A finding regarding the proposed amendment follows each criterion.

(A) SRC 265.005(e)(1)(A). The zone change is justified based on one or more of the following:

- (i) A mistake in the application of a land use designation to the property;**
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or**
- (iii) A demonstration that the proposed zone change is equally or better**

suited for the property than the existing zone. A proposed zone is equally or better suited than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

Finding: The Hearings Officer notes that the applicant does not identify a mistake in the application of a land use designation to the property and does not identify a change in the economic, demographic, or physical character of the vicinity. The proposal is justified based on (iii), that the proposed zone change boundary realignment is equally or better suited for the property than the existing zone boundaries.

As noted in the applicant's written statement, the existing zone boundaries were intended to align with the centerline of a proposed private street located completely on the subject property. Following further analysis of the site's topography and natural features, the applicant determined that the initial street alignment was not feasible and required modification.

The Hearings Office finds that existing MU-II and MU-III zones remain, with only the shared boundary changing to match the realigned private street. As such, the uses allowed by the proposed zones will continue to conform with the development and uses in the vicinity of the site. Based on this finding, the Hearings Officer concludes that this standard is met.

(B) If the zone change is City- initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

Finding: The proposed zone change has not been initiated by the City of Salem. Therefore, this criterion does not apply.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

Finding: The staff report addresses the applicable Goals and Policies of the Comprehensive Plan as follows:

Salem Urban Area Goals and Policies, B. General Development:

To ensure that future decisions concerning the use of land within the Salem urban area are consistent with State Land Use Goals.

Development Compatibility B.12

Land use regulations which govern the siting of any development shall encourage

development to reduce its impact on adjacent properties by screening, landscaping, setback, height, and mass regulations.

Finding: The Hearings Officer notes that the approval standards for the proposed zone change require a demonstration of compliance with the Comprehensive Plan policies. Those policies are themselves acknowledged by the State as being consistent with or required by Statewide Planning Goals. The findings demonstrating that the proposal is consistent with the zone change and the Comprehensive Plan are included in this decision and demonstrate that the proposal is consistent with the Statewide Planning Goals.

The Hearings Officer notes that the proposed zone change is consistent with the Comprehensive Plan designation; any subsequent development allowed under the new zone that eventually occurs on the site will also be required to comply with SRC development standards and therefore will also be consistent with the policies under the Comprehensive Plan, and in turn will be consistent with the statewide goals considered in the development of those policies, and the implementing standards and criteria. These policies include, but are not limited to, the policies that promote citizen involvement, economic growth, carrying capacity, optimal use of the land, street improvements, development compatibility, and lighting. Each of these policies is implemented by the Comprehensive Plan map, the zoning map, and the provisions of the SRC setting the standards which apply to all development permitted under the new zone.

Future development of the site will be required to conform to the development standards of the MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones. In addition to meeting the pedestrian-oriented design of the MU-II and MU-III zone, multiple family development will be required to adhere to the multiple family design review guidelines and standards of SRC Chapter 702. The MU-II and the MU-III zone allows for a range of development, including commercial and residential development, and these development types must also comply with the development standards for screening, landscaping, setbacks, height, and mass regulation. As discussed by the applicant in the public hearing, reconfiguring the boundary between the MU-II and MU-III zoned portions of the site to conform to the new alignment of the private road will better accommodate these development standards and avoid small islands adjoining the private road that are subject to different standards.

Salem Urban Area Goals and Policies, Urban Growth Goal:

To ensure that the rate, amount, type, location and cost of development will preserve or enhance the City's quality of life and promote the City's efficient delivery of services.

Infill C.4

Development of land with existing urban services shall be encouraged before the

conversion of urbanizable lands to urban uses.

Finding: The Hearings Officer notes that the subject property is not located within the Urban Service Area. Future development may be subject to Urban Growth Area Development Permit requirements to ensure that linking and boundary facilities are made available to their property. City services, including water, sewer, streets and storm drainage are available to serve the subject property. The Hearings Officer finds that the Applicant's proposal is consistent with this policy.

Salem Urban Area Goals and Policies, Growth Management Goal:

To manage the growth in the Salem urban area through cooperative efforts of the City of Salem and Marion and Polk Counties, to ensure the quality of life of present and future residents of the area, and to contain urban development to preserve adjacent farm land.

Finding: The Hearings Officer notes that public facilities and service needs for the subject property will be provided at the time of development of the site. For purposes of changing the zoning on portions of the subject property, all public services and utilities are available in the vicinity of the subject property, including water, sewer, storm drainage, streets, sidewalks, fire and police protection, electricity, telecommunications, and solid waste disposal. The proposed Zone Change is consistent with these policies. Master-planned facilities necessary to support commercial development on the subject property will be evaluated through an Urban Growth Preliminary Declaration.

Based upon this finding, the Hearings Officer concludes that the proposal is consistent with this policy.

Infill on Facilities D.9

New development shall be encouraged to locate in areas where facilities are already available and in areas which require the least public costs to provide needed facilities and services.

Finding: As addressed above, public facilities are readily available within the vicinity of the subject property, minimizing public cost to provide the needed facilities and services. The Hearings Officer finds that the proposal is consistent with this policy.

Salem Urban Area Goals and Policies, Residential Development Goal:

To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing.

Finding: The Hearings Officer notes that the proposed zone change only modifies the boundaries of the existing MU-II and MU-III zones, and the zone change will not remove

any land from the residential lands inventory. The existing area for the MU-II and MU-III zone is 8.07 acres and 16.58 acres, respectively. The proposed zone change will increase the area of the MU-II zone to 8.86 acres and decrease the MU-III to 16.20 acres. The Hearings Officer finds that the proposed zone change will not result in an inadequate supply of developable land to support the City's housing needs. The proposal promotes a variety of housing opportunities and an adequate supply of developable residential land and helps to make this southern portion of the City desirable for such residential uses. This better promotes commercial retail opportunities in proximity to residential uses and residentially developing areas, and it contributes to more complete communities with fewer needs for vehicular trips to such opportunities than if they were located further away.

Not only are commercial uses complementary to residential uses, but the location of this mixed use zoning will also continue to further the City's policies aimed at minimizing vehicle travel distances and encouraging non-vehicular access to such services by locating residential areas and commercial services in closer proximity than has historically occurred. City staff asserts, and the Hearings Officer agrees, that the proposal is consistent with this Comprehensive Plan Goal and its implemented policies.

Salem Urban Area Goals and Policies, F. Mixed-Use Development Goal:

To provide a mixture of complementary land uses that may include housing, retail, offices, services, industrial and civic uses, to create economic and social vitality.

Finding: The existing Mixed Use plan designations allow a broad range of uses on the subject property. The proposed zone change boundary realignment would not impact the mixed-use development of the site, and the applicant has previously indicated a desire for mixed-used development of the site to occur if possible.

Furthermore, under CPC-ZC21-04, the Planning Commission imposed a condition of approval to limit the subject property to three drive-through facilities.

Salem Urban Area Goals and Policies, Commercial Development Goal (Page 35, Salem Comprehensive Policies Plan):

To maintain and promote the Salem urban area as a commercial center for the Marion-Polk County metropolitan area.

Finding: The existing mixed-use designations would allow a mixed-use development or shopping center that can provide a range of services for the southeastern portion of the Marion-Polk County metropolitan area. Existing commercial concentrations elsewhere in the region, such as downtown Salem and Lancaster Drive, are a considerable distance from existing and future development in the southeastern portion of the metropolitan area. Transportation access to the subject property would promote use of a site within the Salem urban area as the commercial center for underserved areas inside and outside

of the City limits.

Policy G.4. Community shopping and service facilities shall be located adjacent to major arterials and shall provide adequate parking and service areas. Land use regulations shall include provisions for siting and development which discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets.

Finding: The subject property is well-served by the street network in the vicinity, which includes collectors, Kuebler Boulevard, and the adjacent I-5 freeway interchange. As surrounding properties develop, the existing network of higher-classification streets will allow regional traffic to access the site without filtering through neighborhood residential streets.

Policy G.5. Unless the existing development pattern along arterials and collectors commits an area to strip development, new commercial development shall be clustered and located to provide convenience goods and services for neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods.

Finding: The proposed zone change boundary realignment will not impact the existing Mixed-Use designations of the site to facilitate clustered retail development at one quadrant of the I-5/Kuebler Boulevard interchange. The existing zoning allows a wide variety of goods and services to be provided in a location where existing transportation facilities provide access from several different neighborhoods.

Salem Urban Area Goals and Policies, J. Transportation Goal:

To provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.

Finding: The City has developed the Salem Transportation System Plan (STSP), which establishes transportation objectives and policies and provides a hierarchical system of streets and highways to provide optimal mobility for all travel modes throughout the City's urban area. Kuebler Boulevard SE abuts the subject property to the north and is classified as a Parkway by the Salem TSP street classification system. Kuebler Boulevard SE is interconnected to a network of streets; 27th Avenue abuts the subject property to the west and is designated as a collector street on the Salem TSP street classification map. Boone Road SE abuts the subject property to the south and is also a designated collector street. Battle Creek Road SE is designated as a minor arterial street and provides north-south connectivity to the site via Boone Road SE. The subject property is well connected to the existing public street system, and it provides connectivity with the surrounding neighborhood as well as the broader Salem Community.

Two conditions of approval were applied to the site by the Planning Commission under CPC-ZC21-04 that required that the site generate no more than 25,348 vehicle trips per day and required the applicant to coordinate with Cherriots for the location of new bus stops.

The subject property is connected to the City's public transportation network, as evidenced by the Cherriots' comments in the CPC-ZC21-04 record, stating that it has discussed placing two public transportation stops to serve the subject property with the applicant. The location and number of the bus stops connecting to Cherriots' system will be determined with a site plan review application in the future. The Hearings Officer concludes that the realignment of the two mixed use zones along the centerline of the realigned private road is consistent with this policy.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

Finding: The applicable Statewide Planning Goals are as follows:

Statewide Planning 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.*

Finding: Prior to submitting the zone change application to the City of Salem, the applicant contacted the South Gateway Neighborhood Association (SGNA), the abutting Morningside Neighborhood Association (MNA), and the Southeast Mill Creek Association (SEMCA), pursuant to SRC 300, to apprise them of the zone change request. A public hearing notice was mailed to the affected property owners, all property owners and tenants within 250 feet of the subject property, and to the South Gateway Neighborhood Association, the abutting Morningside Neighborhood Association, and the Southeast Mill Creek Association, and signs were posted on the property. The property is not located within a Homeowner's Association. The Hearings Officer concludes that the applicant and City followed the established public process which satisfies Citizen Involvement requirements described in Goal 1.

Statewide Planning 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.*

Finding: The City has complied with the Goal requirements for establishing and maintaining a land use planning process. The Oregon Land Conservation and Development Commission has acknowledged that the Salem Area Comprehensive Plan is in compliance with the Statewide Planning Goals.

Statewide Planning Goal 3 – Agricultural Lands; Goal 4 – Forest Lands:

Finding: The subject property is not identified as agricultural or forest land, and these Statewide Planning Goals are not applicable to this application.

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

Finding: The Hearings Officer notes that it is possible that scenic, historic, or cultural resources exist on the subject property. Prior to development, the property owner is required to consult with the City Historic Preservation Officer. According to the Salem-Keizer Local Wetland Inventory (LWI), there are wetlands mapped on the subject property. The applicant has provided a wetland delineation as part of their application. The City's wetland ordinance, SRC Chapter 806, requires notice and permitting through the Department of State Lands (DSL). The application will be reviewed for compliance with the City's tree preservation ordinance and any applicable wetland standards at the time of development. The Hearings Officer concludes that the proposal is consistent with Goal 5.

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

Finding: Land located within the Urban Growth Boundary is considered urbanizable and is intended to be developed to meet the needs of the City, and the effects of urban development on air, water and land resources are anticipated. Future development of the property is subject to tree preservation, stormwater and wastewater requirements of the UDC that are intended to minimize the impact of development on the state's natural resources. The Hearings Officer concludes that the proposal is consistent with Goal 6.

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

Finding: The City has complied with Goal 7 by adopting specific policies and development standards that protect against flood hazards, potential landslides and other natural hazards. The implemented measures are found in the SRC under Chapters 809 and 601 and are imposed at the time a development application is reviewed.

The City's adopted landslide hazard susceptibility maps show the subject property is mapped within areas that have 2 to 3 landslide hazard susceptibility points. Three activity points are associated with commercial building permits, and the City's landslide hazard ordinance, SRC Chapter 810, requires any development proposal with a cumulative total of 5 to 8 points to submit a geologic assessment in conjunction with the application. Due to the moderate landslide hazard susceptibility classification (5 to 8

points) for the subject property, and that the property's point rating is at the lower end of that scale, nothing in the record demonstrates that the site cannot be safely developed, whether with commercial or residential uses.

There are no other identified natural disaster or hazards on the subject property. The Hearings Officer concludes that the proposal is consistent with Goal 7.

Statewide Planning 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.*

Finding: The subject property is not within an identified open space, natural or recreational area, and no destination resort is planned for this property; therefore, Goal 8 is not applicable to this proposal.

Statewide Planning 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.*

Finding: The proposal will provide a site for a community level retail center. This proposal increases economic opportunities for City residents. As such, this proposal is consistent with Goal 9's requirement to provide a variety of economic opportunities for City residents, including commercial opportunities. The Hearings Officer concludes that this proposal meets the requirements of Goal 9.

Statewide Planning Goal 10 – Housing: *To provide for the housing needs of citizens of the state.*

Finding: In 2022 the City adopted a Housing Needs Analysis (HNA), after converting land across the City to address a projected deficit of land designated for multi-family residential through the *Our Salem* project. As part of *Our Salem*, the City expanded mixed use designations and zoning across the city, especially in areas served by frequent transit, in order to promote housing at all income levels. Since the proposed zone change is not changing the Comprehensive Plan designation but instead only realigns the zoning boundary with the proposed street, the proposal will not have an impact on the ability of the City to provide for its projected housing needs. The Hearings Officer concludes that the proposal meets the requirements of Goal 10.

Statewide Planning 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.*

Finding: The subject property is located outside of the Urban Service Area meaning that an Urban Growth Area (UGA) Development Permit may be needed. However, water, sewer, and storm infrastructure are currently available within adjacent streets and

areas, and they appear to be adequate to serve the property. Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 220. The zone change request will not affect the efficient use and development of property requiring public facilities. The Hearings Officer concludes that the proposal is consistent with Goal 11.

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

Finding: Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule (OAR) 660-012-0060. This provision is triggered by amendments to comprehensive plans and land use regulations that “significantly affect” a surrounding transportation facility (road, intersection, etc.). As the proposed zone change is to realign the boundary of existing zones on a single unit of land, the proposal will not cause a significant effect to the surrounding transportation facility which was not already identified and addressed when the subject property was changed to MU-II and MU-III. The Hearings Officer concludes that the proposal satisfies Goal 12.

Statewide Planning Goal 13 – Energy Conservation: *To conserve energy.*

Finding: The zone change request is for vacant, undeveloped property; however, City services are located nearby and require minimal extension to serve the property. Future development of the property will be required to comply with current development and building standards for energy efficiency. The Hearings Officer concludes that the proposal is consistent with Goal 13.

Statewide Planning 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.*

Finding: The subject property was annexed into the City of Salem in 2011 and is located within the Urban Growth Boundary (UGB). The proposal does not include extension of services to properties outside of the UGB. The proposed zone change is consistent with an orderly and efficient transition from rural to urban use for incorporated land adjacent to major transportation facilities. The Hearings Officer concludes that the proposal complies with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway; Goal 16 – Estuarine Resources; Goal 17 – Coastal Shorelands; Goal 18 – Beaches and Dunes; and Goal 19 Ocean Resources:

Finding: The subject property is not located within the Willamette River Greenway or in an estuary or coastal area. These Statewide Planning Goals are not applicable to this application.

(E) *If the zone change requires a comprehensive plan change from an industrial use designation to a non-industrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.*

Finding: The existing and proposed reconfigured MU-II and MU-III zones both implement the current Mixed-Use Comprehensive Plan designation; therefore, as a change to the Comprehensive Plan map designation for the property is not required for the proposed zone change, this criterion is not applicable.

(F) *The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.*

Finding: The proposed zone change is to realign the boundary between the existing MU-II and MU-III zones in the interior of a single unit of land. Both zones implement the Mixed-Use designation in the Comprehensive Plan. The zone change is consistent with the existing Comprehensive Plan map designation and does not require a change to the Comprehensive Plan map. The Comprehensive Plan designation is used when the City plans transportation facilities in the Salem TSP. Therefore, pursuant to OAR 660-012-0060(9), the Hearings Officer finds that the proposed amendment to the zoning map does not significantly affect an existing or planned transportation facility.

Conditions of approval were imposed on the subject property under CPC-ZC21-04, restricting the allowed uses and establishing site specific development standards. The conditions imposed are as follows:

Condition 1: The subject property shall not contain more than three uses with drive-throughs.

Condition 2: The subject property shall have no single building footprint that is constructed with more than 70,000 sq. ft. excluding parking structure.

Condition 3: The driveway within the development shall be considered a primary street and constructed to a minimum local street standard. Where applicable, the back of sidewalk shall be the assumed property line for setback and development standards.

Condition 4: The applicant shall coordinate with Cherriots for the location of new bus stops. The applicant will submit evidence from Cherriots that installation of bus stops as requested is completed.

Condition 5: The site shall not exceed a total trip generation of 25,348 vehicles per day.

To ensure that these conditions are adhered to and met, the following condition of approval is imposed:

Condition 1: The subject property must meet all conditions of approval imposed by CPC-ZC21-04.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

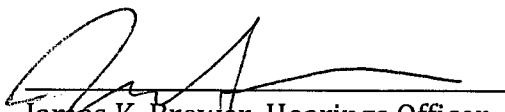
Finding: The water, sewer, and storm infrastructure are available within surrounding streets and areas and appear adequate to serve future development. Site-specific infrastructure requirements will be addressed in the Site Plan Review process pursuant to SRC Chapter 220.

DECISION

Based upon the Facts and Findings set out in this decision, the Hearings Officer APPROVES the request for a quasi-judicial zone to realign the boundaries between MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones along the center line of a private street on a single unit of land that is approximately 24.66 acres in size and located at the southwest corner of the intersection of Kuebler Boulevard and I-5, with the following condition:

Condition 1: The subject property must meet all conditions of approval imposed by CPC-ZC21-04.

DATED: November 6, 2023.


James K. Brewer, Hearings Officer