

NOTICE OF DECISION

PLANNING DIVISION
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DECISION OF THE PLANNING COMMISSION

Comprehensive Plan Change / Zone Change / Urban Growth Preliminary Declaration Case No. CPC-ZC-UGA18-04

APPLICATION NO. : 18-106238-ZO, 18-106836-ZO & 18-106236-LD

NOTICE OF DECISION DATE: July 19, 2018

Summary: A consolidated application to change the Comprehensive Plan Map designation and zoning from "Community Services-Government" with PH (Public and Private Health Services) zoning to "Industrial-Commercial" with IC (Industrial Commercial) zoning and an Urban Growth Preliminary Declaration permit.

Request: An application to change the Comprehensive Plan Map designation and zoning from "Community Services-Government" with PH (Public and Private Health Services) zoning to "Industrial-Commercial" with IC (Industrial Commercial) zoning and an Urban Growth Preliminary Declaration to determine the public facilities required to serve the subject property. The subject property is approximately 15 acres in size, zoned PH (Public and Private Health Services) and located at 4195 Aumsville Highway SE (Marion County Assessor Map and Tax Lot Number 082W0800110).

APPLICANT(S): Kenneth Rasmussen

OWNER(S): Cascade Legacy Properties, LLC (James L. Rasmussen, Kenneth A. Rasmussen, Alan D. Rasmussen, Ryan Rasmussen)

REPRESENTATIVE(S): Brandie Dalton for Multi Tech Engineering Services Inc.

LOCATION: 4195 Aumsville Highway SE

CRITERIA: Comprehensive Plan Change SRC Chapter 64.025(e)(2)
Quasi-Judicial Zone Change SRC Chapter 265.005(e)
Urban Growth Preliminary Declaration: SRC Chapter 200.025(d) & (e)

FINDINGS: The Facts and Findings are in the attached document dated July 19, 2018.

DECISION: The Planning Commission **APPROVED** Comprehensive Plan Map, Zone Change, Urban Growth Preliminary Declaration Case No. CPC-ZC-UGA18-04 subject to the following conditions of approval:

COMPREHENSIVE PLAN MAP CHANGE AND ZONE CHANGE

Condition 1: Prior to development, the applicant shall submit a map and inventory of all trees 10 inches or greater in diameter.

- Condition 2:** Removal of significant trees from the subject property shall require either a tree removal permit documenting that the trees are hazardous or a tree variance.
- Condition 3:** The landscaped setbacks from the Joseph Street SE right-of-way and property line abutting the Acreage Residential zone shall be designed to maximize retention of existing trees and non-nuisance vegetation.
- Condition 4:** No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is inside the Urban Growth Boundary unless a variance is obtained from this condition.
- Condition 5:** No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is outside the Urban Growth Boundary.
- Condition 6:** Transportation impacts from the 15-acre site shall be limited to a maximum total of 5,948 vehicle trips per day.
- Condition 7:** The minimum setback from the Joseph Street SE right-of-way shall be 30 feet, landscaped with a minimum of one plant unit per 20 square feet.

URBAN GROWTH PRELIMINARY DECLARATION

- Condition 8:** Convey land for dedication to equal a half-width right-of-way of 36 feet along the entire frontage of Aumsville Highway SE.
- Condition 9:** Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located within the Urban Growth Boundary.
- Condition 10:** Along the entire frontage of Aumsville Highway SE, construct a three-quarter street improvement to Minor Arterial standards of 23 feet from centerline on the development side and 12 feet wide on the opposite side. Additional pavement width shall be required as set forth in the Public Works Design Standards (PWDS) to provide a left-turn lane at each driveway approach proposed along Aumsville Highway SE.
- Condition 11:** If a driveway approach is constructed along Joseph Street to provide vehicular access to the proposed development:
- a. Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary.

- b. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side;
- c. Along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary, construct a 30-foot-wide linking street improvement.

Condition 12: If no driveway approach is constructed along Joseph Street SE to provide vehicular access to the proposed development and access is provided exclusively from Aumsville Highway, either:

- a. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side; or
- b. Pay a temporary access fee of \$85,000 pursuant to SRC 200.080.

Condition 13: Construct a minimum 8-inch sewer main from the nearest adequate sewer to the subject property. The nearest adequate linking facility is currently an existing 15-inch sewer line in Aumsville Highway SE, approximately 0.64 miles northwest of the subject property.

Condition 14: Construct the following water facilities consistent with the *Water System Master Plan* and as approved by the Public Works Director:

- a. Construct an S-2 pump station to serve the S-2 water service area in the vicinity of the subject property; and
- b. Construct S-1 main(s) from the existing S-1 water system to the new S-2 pump station; and
- c. Construct S-2 main(s) from the pump station to the subject property; and
- d. Construct S-2 main(s) along the boundary of the subject property to serve adjacent properties pursuant to Public Works Design Standard.

Condition 15: As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-41, NP-44, or equivalent; or
- b. Pay a temporary access fee of \$72,450 pursuant to SRC 200.080(a).

VOTE:

Yes 3 No 2 Absent 3 (Levin, Pollock, Schweickart) Abstained 1 (Griggs)



Rich Fry, President
Salem Planning Commission

Application Deemed Complete: April 17, 2018
Public Hearing Date: June 19, 2018 & July 17, 2018
Notice of Decision Mailing Date: July 19, 2018
Decision Effective Date: August 4, 2018
State Mandate Date: September 12, 2018

Case Manager: Pamela Cole, pcole@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., August 3, 2018**. Any person who presented evidence or testimony at the hearing may appeal the decision. 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) 64, 200, 265. The appeal must be filed in duplicate with the City of Salem Planning Division. The 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 Salem City Council will review the appeal at a public hearing. After the hearing, the Salem 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 at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment from
“Commercial” to “Industrial Commercial”, Zone Change from PH (Public and
Private Health Services) to IC (Industrial Commercial), and Urban Growth
Preliminary Declaration for an approximately 15-acre site located at
4195 Aumsville Highway SE**

Procedural Findings

On March 13, 2018, Brandie Dalton, Land Use Planner, on behalf of applicant Kenneth Rasmussen, filed an application for a Comprehensive Plan Change and Zone Change to change the Comprehensive Plan Map designation of the subject property from “Community Services-Government” to “Industrial Commercial” and to change the zoning from PH (Public and Private Health Services) to IC (Industrial Commercial) and an application for an Urban Growth Preliminary Declaration.

This application was deemed complete for processing on April 17, 2018. Notice of the consolidated application was distributed to City Departments and public and private service providers on May 22, 2018 and was mailed to the owners of all property within 250 feet of the subject property on May 22, 2018. The property was posted in accordance with the posting provision outlined in SRC 300.620.

State law (ORS 197.610) and SRC 300.602(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-day notice when an applicant or the City proposes an amendment to an acknowledged Comprehensive Plan or land use regulation or to adopt a new land use regulation. The City sent notice of this proposed Comprehensive Plan and Zone Change to DLCD on May 10, 2018.

On June 19, 2018, the Planning Commission opened a public hearing on the consolidated applications and continued the hearing to July 17, 2018. On July 17, 2018, testimony was received, and the Planning Commission voted to approve the consolidated Comprehensive Plan Change, Zone Change, and Urban Growth Preliminary Declaration application subject to conditions of approval in the supplemental staff report. (Note: The numbering of conditions in these findings corresponds to the numbering of the conditions in the supplemental staff report.)

Amendments to an acknowledged Comprehensive Plan are not subject to the 120-day rule (Oregon Revised Statutes [ORS] 227.128). The request for Zone Change and the Urban Growth Preliminary Declaration included in this consolidated application are subject to the 120-day rule. The state-mandated 120-day deadline to issue a final local decision in this case is September 12, 2018.

**FINDINGS APPLYING THE APPLICABLE SALEM REVISED CODE CRITERIA FOR
A COMPREHENSIVE PLAN MAP AMENDMENT**

Salem Revised Code (SRC) 64.025(e)(2) establishes the approval criteria for Comprehensive Plan Map amendments. In order to approve a quasi-judicial Plan Map amendment request, the decision-making authority shall make findings of fact based on evidence provided by the applicant that demonstrates satisfaction of all of the applicable

criteria. The applicable criteria are shown below in **bold** print. Following each criterion is a finding relative to the amendment requested.

SRC 64.025(e)(2)(A): The Minor Plan Map Amendment is justified based on the existence of one of the following:

- (i) ***Alteration in Circumstances.* Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.**
- (ii) ***Equally or Better Suited Designation.* A demonstration that the proposed designation is equally or better suited for the property than the existing designation.**
- (iii) ***Conflict Between Comprehensive Plan Map Designation and Zone Designation.* A Minor Plan Map Amendment may be granted where there is conflict between the Comprehensive Plan Map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the Comprehensive Plan Map designation. In determining whether the zoning designation is the more appropriate designation, the following factors shall be considered:**
 - (aa) **Whether there was a mistake in the application of a land use designation to the property;**
 - (bb) **Whether the physical characteristics of the property are better suited to the uses in the zone as opposed to the uses permitted by the Comprehensive Plan Map designation;**
 - (cc) **Whether the property has been developed for uses that are incompatible with the Comprehensive Plan Map designation; and**
 - (dd) **Whether the Comprehensive Plan Map designation is compatible with the surrounding Comprehensive Plan Map designations.**

Finding: The proposal is justified based on (ii); the proposed designation is equally or better suited for the property than the existing designation. The subject property is currently designated for Community Services-Government and zoned for public and private health services. The applicant does not assert that a mistake has been made in the application of the Community Services-Government designation to the subject property. Instead, the applicant statement addresses the change to the Plan Map

designation to “Industrial-Commercial” and zoning to Industrial Commercial on the justification that they are better suited for the property.

The applicant states that the current PH zoning has been in place for years and there has been no interest in development. The property was part of the Department of Corrections property at 3405 Deer Park Drive until it was partitioned in 2012 and sold to Corban University. The University sold the property to the applicant in 2018.

The subject property’s current designations would allow for development of health services and related uses, such as residential care, nursing care, medical centers/hospitals, and outpatient medical services and laboratories. Other allowed uses include nonprofit shelters; drug stores and pharmacies; offices for home health care services and distance education and distance learning; recreational and cultural community services and parks and open space; day care, basic education, and post-secondary and adult education; administration of public health programs; social services; emergency services; detention facilities; warehousing and storage operated by a public entity; helicopter landing areas and transit stop shelters; basic utilities; and agriculture, forestry, and wildlife rehabilitation facilities.

The proposed Industrial Commercial designations would allow similar health services and related uses, except for medical center/hospitals, but would allow many more residential, commercial and industrial uses. These include, but are not limited to, multiple family residential; commercial lodging; retail sales and services; business and professional services; motor vehicle, trailer, and manufactured dwelling sales and service; construction contracting, repair, maintenance, and industrial services; wholesale sales, storage, and distribution; and some manufacturing.

The Comprehensive Plan describes the intent of the “Industrial Commercial” designation as “to provide areas for a mixture of heavy commercial and light manufacturing and warehousing activities.” The Regional Economic Opportunities Analysis report of May 2011, as cited by the applicant, was not adopted by the City of Salem and is superseded by the Salem EOA dated, December 2014 and adopted into the Salem Area Comprehensive Plan. The City’s adopted Economic Opportunities Analysis (EOA) found a surplus of 907 acres of industrial land within the Salem UGB and a shortage of 271 acres for commercial uses. Changing the designation to Industrial Commercial would add to the City’s inventory of lands that may be developed for commercial uses and would not reduce the inventory available for industrial uses.

Therefore, the Planning Commission finds that the Industrial Commercial designation and IC zoning, as conditioned below, is equally suited to the subject property as the existing designations, and the proposal meets this criterion.

SRC 64.025(e)(2)(B): 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 plan map designation;

Finding: The applicant has requested an Urban Growth Preliminary Declaration along with the proposed comprehensive plan map change. Because the subject property is located outside the City's Urban Service Area, SRC Chapter 200 requires applicants to file an application for an Urban Growth Preliminary Declaration to identify the master planned public facilities required to be extended to serve the proposed development. Pursuant to SRC 200.025(e), the public facilities identified in the Urban Growth Preliminary Declaration must be constructed by the applicant as a condition of any subsequent land use approval.

As identified in the comments from the Public Works Department and within the findings for the Urban Growth Preliminary Declaration for the proposed development included in the staff report and in the supplemental staff report, the subject property is capable of being served with public facilities and services necessary to support the uses allowed by the proposed comprehensive plan map designation. Conditions of approval limit the trips any new development can generate, thereby not creating any new traffic that will need to be mitigated. Frontage improvements and right-of-way dedication on under-improved portions of abutting right-of-way will be required for future development on the site through the site plan review process. The conditions of approval for the Urban Growth Preliminary Declaration ensure that such public facilities and services will be constructed.

Therefore, the Planning Commission finds that the proposal, as conditioned below, meets this criterion.

SRC 64.025(e)(2)(C): The proposed plan map designation provides for the logical urbanization of land;

Finding: The proposed "Industrial Commercial" designation is a logical extension of nearby development patterns. The surrounding area is developed with a mix of residential, agricultural, educational, and institutional uses. Nearby, the Mill Creek Corporate Center is developing with large industrial and commercial uses such as the Home Depot and Amazon distribution centers. The property lies along a minor arterial street serving commuters from areas outside of the city and is within approximately one mile of Kuebler Boulevard SE. The proposed land use designations would allow uses such as retail, office, and services that would support the nearby existing uses as well as commuters. The proposed designation would also allow multifamily residential uses to provide housing for university students and the growing number of employees at Mill Creek Corporate Center. The required street improvements will provide better vehicular

access for abutting properties. Development standards in the proposed IC zoning district will provide landscaped setbacks from the street and buffering from less intensive uses abutting to the east.

Therefore, the Planning Commission finds that the proposal, as conditioned below, meets this criterion.

SRC 64.025(e)(2)(D): The proposed land use designation is consistent with the Salem Area Comprehensive Plan and applicable Statewide planning goals and administrative rules adopted by the Department of Land Conservation and Development; and

Finding: Considering the facts, evidence, and reasons presented, the proposed Comprehensive Plan Map change conforms to all applicable local and Statewide Planning Goals, as conditioned, and meets this criterion. The applicable Goals and Policies of the Comprehensive Plan are addressed as follows:

Salem Urban Area Goals and Policies, Growth Management Goal (Page 27, Salem Comprehensive Policies Plan):

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

Finding: The subject property abuts the Urban Growth Boundary. The necessary public facilities, services and utilities are nearby and available to be extended to provide service to the subject property. Expansions of these services and systems will be required as specified in the Urban Growth Area Declaration and as a result of the future development of the site made possible by the proposed Comprehensive Plan Map amendment and zone change. The existence and availability of public services, facilities and utilities to the property fulfills this goal.

Policy D.6. (Infill Development): New developments shall make maximum use of available land areas with minimal environmental disturbance and be located and designed to minimize such public costs as extension of sewer and water services, schools, parks, and transportation facilities.

Finding: The subject property is within the Urban Growth Boundary and near public facilities. The development will be required to provide required linking and boundary improvements as specified in the conditions of the Urban Growth Preliminary Declaration.

Policy D.9. (Infill on Facilities): 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: The subject property is within the Urban Growth Boundary and near public facilities. The development will be required to provide required linking and boundary improvements as specified in the conditions of the Urban Growth Preliminary Declaration.

Policy D.11. (Facility Responsibility): Where development creates a demand for new or expanded facilities and services, a share of the costs of new or expanded facilities and services should be borne by the new development itself.

Finding: The subject property is within the Urban Growth Boundary and near public facilities. The development will be required to provide required linking and boundary improvements as specified in the conditions of the Urban Growth Preliminary Declaration.

Salem Urban Area Goals and Policies, Residential Development Goal (Pages 30-31, Salem Comprehensive Policies Plan):

To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing. In meeting this goal, residential development shall:

- a. Encourage the efficient use of developable residential land;*
- b. Provide housing opportunities for Salem's diverse population; and*
- c. Encourage residential development that maximizes investment in public services.*

Policy E.1. (Establishing Residential Uses): The location and density of residential uses shall be determined after consideration of the following factors;

- a. The type and distribution of housing units required to meet expected population growth within the Salem urban growth boundary.*
- b. The capacity of land resources given slope, elevation, wetlands, flood plains, geologic hazards and soil characteristics.*
- c. The capacity of public facilities, utilities and services. Public facilities, utilities and services include, but are not*

limited to municipal services such as water, sanitary and storm sewer, fire, police protection and transportation facilities.

d. Proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.

e. The character of existing neighborhoods based on height, bulk and scale of existing and proposed development in the neighborhood.

f. Policies contained in facility plans, urban renewal plans, residential infill studies and neighborhood and specific development plans.

g. The density goal of General Development Policy 7.

Finding: Development of multi-family housing would address housing needs in the area. The slope, elevation, and landslide hazards present on the subject property may make multi-family residential development more feasible than commercial or industrial uses, which typically require more extensive areas of flatter terrain.

Policy E.6. (Multi-Family Housing): Multi-family housing shall be located in areas proximate to existing or planned transportation corridors, public facilities and services:

a. To encourage the efficient use of residential land and public facilities, development regulations shall require minimum densities for multiple family development zones;

b. Development regulations shall promote a range of densities that encourage a variety of housing types;

c. Multiple family developments should be located in areas that provide walking, auto or transit connections to:

(1) Employment centers;

(2) Shopping areas;

(3) Transit service;

(4) Parks;

(5) Public buildings.

Finding: The subject property is located on a minor arterial that provides auto connections to employment centers, shopping areas, transit service, and public buildings. Development of the site would include pedestrian sidewalks that provide walking connections. Transit service is available on Aumsville Highway SE to the

Marion County Jail facility, approximately 1/2 of a mile from the subject property. Bicycle lanes or wide shoulders are available on Aumsville Highway SE from the subject property to Kuebler Boulevard SE.

Salem Urban Area Goals and Policies, Commercial Development Goal (Pages 35-36, Salem Comprehensive Policies Plan):

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 that discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets and provisions for connectivity to the facilities for pedestrian and bicyclists from residential neighborhoods.

Finding: The proposed changes would allow development of shopping and service facilities on the subject property, which abuts a minor arterial, Aumsville Highway SE that links to a parkway. Prior to any construction of the subject property will be required to apply for site plan review to review the development for constancy with development standards in the Salem Revised Code. Access to the proposed development will be determined at the time of site plan review. Public Works criteria for driveways require that a proposed driveway approach, where possible, shall be shared with an adjacent property or take access from the lowest classification of street abutting the property. In this case, the criteria would require access from the local street, Joseph Street SE. However, because customers other than those in the adjacent neighborhoods would be traveling on Aumsville Highway SE to Joseph Street SE, traffic is unlikely to filter through residential streets. Specific driveway locations will be determined at the time of development.

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. New commercial development will generally be within a range of sizes of commercial centers, such as convenience shopping centers, neighborhood shopping centers, and community shopping centers. The size of the commercial center should be scaled and consistent with the character of surrounding and nearby residential development.

Finding: Commercial and industrial development or mixed use development on the subject property would serve nearby residents, commuters from outside the city, students and employees at Corban University, and employees of the nearby commercial, institutional, and industrial developments. Because the nearby development pattern is established, the proposed development will not create a linear “strip” district, and is consistent with the cluster pattern described in the policy.

Policy G.6 Commercial office uses shall have direct access to collector and arterial streets or be located within one-quarter mile of a collector or arterial street.

Finding: The subject property abuts Aumsville Highway SE, a minor arterial in the *Salem Transportation System Plan*. However, Public Works criteria for driveways require that a proposed driveway approach, where possible, shall be shared with an adjacent property or take access from the lowest classification of street abutting the property. In this case, the criteria would require access from the local street, Joseph Street SE, which is within one-quarter mile of Aumsville Highway SE (minor arterial) and Deer Park Drive SE (collector). Specific driveway locations will be determined at the time of development.

Policy G.7. (Mixed Use Development) With commercial development, buffer strips will be provided from residential uses, and external connectivity from residential development and other commercial development will be provided to commercial areas for pedestrian, bicycle, and vehicular connectivity.

Finding: Mixed use development on the subject property must demonstrate compliance with this policy at the time of site plan review.

Salem Urban Area Goals and Policies, Industrial Development Goal (Pages 37-38, Salem Comprehensive Policies Plan):

Policy I.1. Maintain a long-term (20 year) industrial land inventory which provides a full range of small, medium, and large parcel sizes and locations to sustain a competitive market for industrial sites. Maintaining a long-term supply of industrial land will require identifying and preserving key high value industrial land, especially where the City has made substantial investments in infrastructure. High value industrial land has the following characteristics: it is designated for industrial uses, in flat parcels, most frequently in large parcels at least 10 acres in size, located within an industrial district, has direct access to a state highway or I-5,

and is serviced or planned to be serviced with water and wastewater infrastructure.

Finding: Based on the criteria provided in Policy I.1, the subject property has few characteristics of high value industrial land; while it is over the 10-acre minimum described in the policy, it is steeply sloped, does not have direct access to a state highway or I-5, and will require substantial improvements to be serviced with water and wastewater infrastructure. It is currently within an area designated for Community Services-Government, rather than industrial development. "Industrial district" is defined in Policy I.16 as having a "continuity of design and uses on preferably medium-sized parcels (10 to 40 acres in size)." While nearby parcels in the Employment Center zone meet the ideal location of high value properties within a cohesive "industrial district," the subject property does not.

The Industrial Commercial designation and corresponding IC zone permit a wide range of industrial uses and commercial uses. Amending the Plan Map to designate the subject property Industrial Commercial would increase the overall acreage available within the UGB for industrial uses and commercial uses.

Policy I.7 Industrial land shall be subject to industrial development standards which ensure that development and operation is compatible with surrounding land uses.

Finding: Industrial or commercial development of the subject property would be subject to development standards set forth in SRC Chapter 551 (Industrial Commercial zone), including perimeter setbacks, landscaping, screening, and industrial performance standards. These standards are established to ensure compatibility with surrounding uses, consistent with this policy.

Policy I.10 Traffic generated by industrial uses should be diverted away from residential areas when feasible and should have convenient access to arterial or collector streets.

Finding: As described in findings on Policy C.4 above, the supporting network of arterials and local streets provides vehicular access to the subject property. Public Works criteria for driveways require that a proposed driveway approach, where possible, shall be shared with an adjacent property or take access from the lowest classification of street abutting the property. In this case, the criteria would require access from the local street, Joseph Street SE. Joseph Street SE intersects with Aumsville Highway SE, a minor arterial. Aumsville Highway SE intersects with Deer

Park Drive SE, a collector street. Therefore, the traffic would have convenient access to an arterial and a collector. The proposal is consistent with this policy.

The Planning Commission finds that the proposal as modified below is consistent with the applicable Goals and Policies of the Comprehensive Plan.

Finding: The applicable Statewide Planning Goals are addressed 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: A public hearing notice was mailed to the affected property owners, all property owners within 250 feet of the subject property and to the Southeast Mill Creek Association. This satisfies Citizen Involvement 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 decision 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 have acknowledged the Salem Area Comprehensive Plan to be in compliance with the Statewide Planning Goals.

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: There are no known scenic, historic, natural, or cultural resources on the affected parcel. The application will be reviewed for compliance with the City's tree preservation ordinance, historic preservation ordinance, and any applicable wetland standards at the time of development. Staff finds 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: The City's adopted facility plans implement Goal 6. Development is required to meet applicable State and Federal requirements for air and water quality and applicable city water, sewer, and storm drainage system master plan requirements. The City is

Facts & Findings

responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality. Vehicle traffic along the boundary streets, Aumsville Highway and Joseph Street may impact air quality, but future development of commercial and industrial uses on the site may reduce air quality impacts by reducing trip lengths to obtain services.

There are no identified significant natural resources on the site. The proposal will have no significant impacts to the quality of the air, water or land. Staff finds that the proposal is consistent with Goal 6.

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

Finding: There are landslide hazards existing on the subject property. The City's tree protection, landslide, and floodplain development standards will be applied at the time of future development. Staff finds 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 City's adopted Comprehensive Plan Open Space, Parks and Recreation Goal and Policies implements the Statewide Recreation Needs Goal and Park and Recreation Master Plan. The conditions of approval for the Urban Growth Preliminary Declaration specify requirements for parks if the property is to be developed for residential uses. Staff finds that the proposal is consistent with Goal 8.

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 change the site from the existing "Community Service – Government" designation to "Industrial Commercial." The existing designation provides mainly for public and semi-public uses, and very few other activities. The "Industrial Commercial" designation provides for the IC zone, which allows a wide range of commercial and industrial activities. The "Industrial Commercial" designation presents a far greater range of economic development activities than the current designation. For these reasons the proposed change is consistent with this goal.

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

Finding: The proposed designation of “Industrial-Commercial” and Industrial Commercial zoning would allow for development of multi-family housing as a conditional use. Staff finds that the proposal is consistent with 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 City’s adopted Comprehensive Plan Growth Management, Commercial, Industrial, and Transportation Goal and Policies and adopted Stormwater and Water Master Plans implement the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The City’s capital improvement program and its minimum code standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and appropriate public services and facilities essential for development will be provided to this property at levels that are adequate to serve the proposed use. The required facilities are specified in the Urban Growth Preliminary Declaration. 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.). Where there is a “significant effect” on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a “significant effect” is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either an amendment that “allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility,” or an amendment that would “reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP.”

The applicant for a comprehensive plan change is required to submit a Transportation Planning Rule (TPR) analysis to demonstrate that their request will not have a “significant effect” on the surrounding transportation system, as defined above.

The applicant submitted an analysis in consideration of the requirements of the Transportation Planning Rule (TPR) (OAR 660-012-0060) (**Attachment G**). The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change, as conditioned, will not have a significant impact on the transportation system as defined by OAR 660-012-0060 by limiting the total number of vehicle trips to the reasonable worst case of 5,948 trips in the original comprehensive plan designation.

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 1975, and is located within the Urban Growth Boundary (UGB). Although the subject property is located outside of the Urban Service Area, comments from the Public Works Department indicate that transportation and utility infrastructure is available in the vicinity to serve the site subject to the conditions of the Urban Growth Area Preliminary Declaration. The proposal does not include extension of services to properties outside of the UGB. The proposed Comprehensive Plan and Zone Change are consistent with the mix of uses in the vicinity. The proposal complies with Goal 14.

Staff finds that the proposal is consistent with the applicable Goals and Policies of the Comprehensive Plan and Statewide Planning Goals.

SRC 64.025(e)(2)(E): The amendment is in the public interest and would be of general benefit.

Finding: The proposed change will help to encourage and promote the wider use of an existing property near a developing industrial area. The wider range of uses allowed by the IC zone will allow for additional flexibility for future use and development of the property benefiting the public. As conditioned below, the proposed change in land use designation is consistent with the location and character of the property, with adjacent land use designations, and with the transportation facilities available to serve the property. The proposed “Industrial Commercial” designation will allow for an appropriate transition of the land to private, non-institutional use, and is compatible with the existing uses in the immediate vicinity. The proposal, as conditioned, satisfies this criterion.

FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA

FOR THE ZONING MAP AMENDMENT

The following analysis addresses the proposed zone change for the subject property from PH (Public and Private Health Services) to IC (Industrial Commercial).

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 shall make findings based on evidence provided by the applicant demonstrating that all 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 applicable criteria and factors are stated below in **bold** print. Following each criterion is a response and/or finding relative to the amendment requested.

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 zone would be compatible with the vicinity's development pattern.**
- (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 request satisfies (iii); the proposed zone change is equally or better suited for the property than the existing zone. The physical characteristics of the property and access to transportation facilities are as suited to industrial or commercial development or multi-family residential as they would be to the uses allowed in the current Public and Private Health Services zone.

The IC zone allows a range of housing, retail, office, and light industrial uses, consistent with developing uses to the north and west, which include correctional facilities and industrial and commercial uses, the Corban University campus to the south, and large-acreage residential and agricultural properties to the north and east. The IC zone proposed for the subject property would provide a logical transition from the developing large industrial uses to the educational uses to the south and residential uses to the

north and east. Standards for future development, including perimeter setbacks, landscaping, and screening to ensure compatibility with surrounding uses, are set forth in the Unified Development Code (UDC) and implemented at the time of site plan review.

The Planning Commission finds the proposal, as conditioned, meets this criterion.

(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 proposal is not a City-initiated zone change. Therefore, this criterion does not apply.

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

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this document, address the applicable provisions of the Salem Area Comprehensive Plan for this consolidated comprehensive plan change and zone change request. The proposal, as conditioned, satisfies this criterion.

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

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this document, address applicable Statewide Planning Goals and Oregon Administrative Rules for this consolidated comprehensive plan change and zone change request. The proposal, as conditioned, satisfies this criterion.

(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 rezone is consistent with its 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 rezone; or include both the demonstration and an amendment to the Comprehensive Plan.

Finding: The subject property is not currently designated for industrial, commercial, or employment use. Therefore, this criterion does not apply to the proposal.

(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 subject property has access to the public street network via approximately 2,100 feet of frontage on Joseph Street SE, designated as a Local street in the Salem Transportation System Plan (TSP), and 2,300 feet of frontage on Aumsville Highway SE, designated as a Minor Arterial. The applicant has submitted a TPR analysis that is required to address the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change, as conditioned, will not have a significant impact on the transportation system as defined by OAR 660-012-0060 by limiting the total number of trips to the reasonable worst case of 5,948 trips in the original comprehensive plan designation:

Condition 6: Transportation impacts from the 15-acre site shall be limited to a maximum total of 5,948 vehicle trips per day.

The proposal, as conditioned, meets this criterion.

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

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(B), included earlier in this document, address the public facilities and services available to support uses that would be allowed on the subject property. The subject property is capable of being served through extension of City infrastructure as described in the findings for the Urban Growth Preliminary Declaration. The proposal, with conditions, satisfies this criterion.

FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR URBAN GROWTH PRELIMINARY DECLARATION

Salem Revised Code (SRC) 200.025(d) provides that the Director shall review a completed application for an Urban Growth Preliminary Declaration in light of the applicable provisions of the Master Plans and the Area Facility Plans and determine:

- (1) The required facilities necessary to fully serve the development;
- (2) The extent to which the required facilities are in place or fully committed.

SRC 200.025(e) provides that an Urban Growth Preliminary Declaration shall list all required facilities necessary to fully serve the development and their timing and phasing which the developer must construct as conditions of any subsequent land use approval for the development.

The following is an analysis of the public facilities required to fully serve the development, pursuant to SRC 200.025(d) and (e), based on the City's Master Plans and Area Facility Plans.

SRC 200.055 – Standards for Street Improvements

Finding: SRC 200.055 requires the proposed development to be linked by construction of and improvements to public streets which shall extend from the development to an adequate street or streets by the shortest pre-planned routes available. An adequate linking street is defined as the nearest point on a street that has a minimum 60-foot-wide right-of-way with a minimum 30-foot improvement for Local streets or a minimum 34-foot improvement for Major streets (SRC 200.055(b)). All streets abutting the property boundaries shall be designed to the greater of the standards of SRC Chapter 803 and the standards of linking streets in SRC 200.055(b).

Aumsville Highway SE adjacent to the subject property is an adequate linking street. Joseph Street SE does not meet linking street standards.

Boundary street improvements and right-of-way dedication are required along the entire frontage of Aumsville Highway SE to Minor Arterial standards. Additional pavement width may be required to provide a left-turn lane at each driveway approach proposed along Aumsville Highway.

Along the portion of frontage where Joseph Street SE is located within the Urban Growth Boundary, the applicant shall be required to convey land for dedication to equal a half-width right-of-way of 30 feet

Because a portion of Joseph Street SE abutting the subject property is located outside the Urban Growth Boundary, the scope of street improvements will vary depending on the location of driveway approaches serving the proposed development as follows:

- 1) If a driveway approach is constructed along Joseph Street SE to provide vehicular access to the proposed development, then the applicant shall be required to dedicate right-of-way and construct Boundary street improvements to Local street standards along the entire frontage of Joseph Street SE. However, along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary, the applicant shall be required to construct only a 30-foot-wide linking street improvement.
- 2) If no driveway approach is constructed along Joseph Street SE to provide vehicular access to the proposed development and access is provided exclusively from Aumsville Highway SE, then the applicant shall only be required to construct Boundary street improvements along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary. Because the transportation impacts to Joseph Street SE are limited in this scenario, the applicant has the option of paying

a temporary access fee of \$85,000 pursuant to SRC 200.080 in lieu of constructing the Joseph Street SE improvements based on the following findings:

- a. Neither the City nor Marion County has planned to construct street improvements along Joseph Street SE in the vicinity of the subject property.
- b. Options for urbanizing Joseph Street SE outside the Urban Growth Boundary are limited.
- c. The proportional impacts of the proposed development are better mitigated by providing additional funding for improvements to the intersection of Deer Park Drive SE and Aumsville Highway SE rather than along Joseph Street SE abutting the subject property
- d. The temporary access fee is based on proportional share of 100 dollars per foot of Local street improvements along Joseph Street SE multiplied by 850 feet of Joseph Street SE frontage inside the Urban Growth Boundary, or 85,000 dollars total. The temporary access fee will be used to make improvements in or near the Deer Park Drive SE/Aumsville Highway SE intersection.

In order to comply with the requirements of SRC 200.055 and SRC 803.040, the following conditions of approval are adopted:

- Condition 8:** Convey land for dedication to equal a half-width right-of-way of 36 feet along the entire frontage of Aumsville Highway SE.
- Condition 9:** Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located within the Urban Growth Boundary.
- Condition 10:** Along the entire frontage of Aumsville Highway SE, construct a three-quarter street improvement to Minor Arterial standards of 23 feet from centerline on the development side and 12 feet wide on the opposite side. Additional pavement width shall be required as set forth in the Public Works Design Standards (PWDS) to provide a left-turn lane at each driveway approach proposed along Aumsville Highway SE.
- Condition 11:** If a driveway approach is constructed along Joseph Street to provide vehicular access to the proposed development:
- a. Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary;

- b. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side;
- c. Along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary, construct a 30-foot-wide linking street improvement.

Condition 12: If no driveway approach is constructed along Joseph Street SE to provide vehicular access to the proposed development and access is provided exclusively from Aumsville Highway, either:

- a. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side; or
- b. Pay a temporary access fee of \$85,000 pursuant to SRC 200.080.

SRC 200.060 – Standards for Sewer Improvements

Finding: SRC 200.060 requires the proposed development to be linked to adequate facilities by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities (SRC 200.060).

The nearest adequate linking facility is currently an existing 15-inch sewer line in Aumsville Highway SE, approximately 0.64 miles northwest of the subject property. The applicant shall construct a minimum 8-inch sewer main from the nearest adequate sewer to the subject property.

As a condition of sewer service, all developments will be required to provide public sewers to adjacent upstream parcels. This shall include the extension of sewer mains in easements or rights-of-way across the property to adjoining properties, and across the street frontage of the property to adjoining properties when the main is located in the street right-of-way. This shall include trunk sewers that are oversized to provide capacity for upstream development (PWDS Sewer Division 003).

In order to comply with the requirements of SRC 200.060, the following condition of approval is adopted:

Condition 13: Construct a minimum 8-inch sewer main from the nearest adequate sewer to the subject property. The nearest adequate linking facility is currently an existing 15-inch sewer line in Aumsville Highway SE, approximately 0.64 miles northwest of the subject property.

SRC 200.065 – Standards for Storm Drainage Improvements

Finding: SRC 200.065 requires the proposed development to be linked to existing adequate facilities by the construction of storm drain lines, open channels, and detention facilities which are necessary to connect to such existing drainage facilities. The applicant shall link the on-site system to existing facilities that are defined as adequate under SRC 200.005(a). By complying with the flow control and water quality requirements of SRC Chapter 71, the applicant shall meet the requirements of this chapter.

SRC 200.070 – Standards for Water Improvements

Finding: SRC 200.070 requires the proposed development to be linked to adequate facilities by the construction of water distribution lines, reservoirs, and pumping stations that connect to such existing water service facilities (SRC 200.070). The applicant shall provide linking water mains consistent with the *Water System Master Plan* adequate to convey fire flows to serve the proposed development as specified in the *Water Distribution Design Standards*.

No existing S-2 facilities are available to serve the proposed development. In order to conform to the requirements of SRC 200.070, the following condition is adopted so that the applicant shall construct the following water facilities consistent with the *Water System Master Plan* and as approved by the Public Works Director:

Condition 14: Construct the following water facilities consistent with the *Water System Master Plan* and as approved by the Public Works Director:

- a. Construct an S-2 pump station to serve the S-2 water service area in the vicinity of the subject property; and
- b. Construct S-1 main(s) from the existing S-1 water system to the new S-2 pump station; and
- c. Construct S-2 main(s) from the pump station to the subject property; and
- d. Construct S-2 main(s) along the boundary of the subject property to serve adjacent properties pursuant to PWDS.

SRC 200.075 – Standards for Park Sites

Finding: SRC 200.075 requires that an applicant shall reserve for dedication prior to development approval that property within the development site that is necessary for an adequate neighborhood park, access to such park, and recreation routes, or similar uninterrupted linkages, based upon the Salem Comprehensive Parks System Master Plan.

The applicant has not specified uses for the subject property. Parks improvements will be required for residential uses developed on the subject property.

The Comprehensive Parks System Master Plan shows that future Neighborhood Parks (NP 41 and NP 44) are planned near the subject property. Given the zoning and allowed uses in the vicinity of the subject property, the Master Plan may allow a separate, smaller park be acquired to serve the proposed development. The minimum neighborhood park size is 2 acres; therefore, the applicant shall acquire and convey a 2-acre property for dedication of neighborhood park facility NP-41, NP-44, or equivalent based on sizing established in the Master Plan.

In lieu of acquiring and conveying park land pursuant to SRC 200.075, the applicant has the option of paying a temporary access fee pursuant to SRC 200.080(a). The temporary access fee is a reasonable alternative to conveyance of park land from within the subject property because the topography and location of the subject property is not desirable for a neighborhood park. The temporary access fee amount is \$72,450 based on the following analysis:

- Acquisition and development of 2-acre parks are estimated to cost a total of \$663,200 according to Table E-1 of the Master Plan. City staff estimates that acquisition costs account for approximately 40 percent of the total cost, or \$265,280.
- The park size shall be 2.25 acres per 1,000 population (SRC 200.075(b)).
- Single-family residential development density is 6.3 dwelling units per net acre (Table 5 of draft *Salem Housing Needs Analysis* dated December 2014).
- According to the U.S. Census, the average household size in Salem in 2010 was 2.55 people (p16 of draft *Salem Housing Needs Analysis* dated December 2014).
- The park service area is 55 acres based on a 2-acre park divided by 2.25 acres of park size per 1,000 population divided by 6.3 dwellings per acre divided by 2.55 people per dwelling.
- The proportional share of the park acquisition is \$4,830 per acre based on \$265,280 in acquisition costs divided by 55 acres of park service area.
- The temporary access fee is \$72,450 based on \$4,830 per acre multiplied by the 15 acre-parcel.

In order to comply with the requirements of SRC 200.075, the following condition of approval is adopted:

Condition 15: As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-41, NP-44, or equivalent; or
- b. Pay a temporary access fee of \$72,450 pursuant to SRC 200.080(a).

FINDINGS ADDRESSING PUBLIC COMMENTS RECEIVED JUNE 19, 2018 THROUGH JULY 16, 2018

1. Land use application submittal:

- (a) **Comment:** SRC 300.210(a)(5) requires a statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The applicant failed to contact the Southeast Mill Creek Association (SEMCA) or the Joseph Street neighbors regarding the proposed development. The applicant is avoiding interacting with the Joseph Street Neighbors due to their previously voiced opposition, contrary to Statewide Planning Goal 1.

Finding: The Salem Revised Code does not require that applicants contact the affected neighborhood association(s) prior to application submittal. Staff recommended in the pre-application conference summary letter that the applicant contact SEMCA and provided contact information. The Joseph Street Neighbors are not a City-recognized neighborhood association. The land use application form includes a statement encouraging applicants to contact the affected neighborhood association(s) as early in the process as possible and includes space for the applicant to describe the contact. The applicant responded that the Neighborhood Association had not been contacted. On 4/16/2018, staff provided a courtesy notification of the UGA application to SEMCA and noted that the applicant has also requested a comprehensive plan change and zone change to Industrial Commercial. Staff sent a request for comments and Hearing Notice to SEMCA on May 22, 2018. SEMCA has not submitted comments. Staff sent the required hearing notice to the neighboring property owners within 250 feet of the subject property on May 22, 2018.

- (b) **Comment:** SRC 300.210(a)(5) requires a statement as to whether the Salem-Keizer Transit District was contacted and a summary of the contact. The applicant has not made any attempts to contact the transit district. Currently

there is no bus service provided to the property and the closest bus stop is approximately eight miles away. The applicant does not address the need for alternative modes of transportation that would allow for safe and efficient movement of people to and from the subject property. Statewide Planning goal 12 requires amendments to comprehensive plans and land use regulations encourage the use of alternative transportation to minimize car travel.

Finding: The Salem Revised Code does not require that applicants contact the transit district prior to application submittal. The land use application form includes a question whether the applicant has contacted the transit district and includes space for the applicant to describe the contact. The applicant responded that the transit district had not been contacted. The nearest transit stop is not eight miles from the subject property. Current route maps available online from the transit district indicate that Route 24 stops at the Marion County Correctional Facility on Aumsville Highway SE, approximately 6/10 of a mile from the subject property. Sidewalks and bike lanes are available on Aumsville Highway SE from the intersection with Joseph Street SE to the Marion County Correctional Facility property.

2. Comprehensive Plan Amendment Criteria

(a) Comment: SRC 64.025(e)(2)(A)(i) allows the applicant to demonstrate that the amendment is justified based on alteration in the social, economic, or demographic patterns in the vicinity. The applicant has provided no justification. The development would be out of sequence and higher intensity and would result in a substantial change in the social, economic, or demographic patterns of the vicinity. The burden is on the applicant to show that this criterion is satisfied. Staff suggests that the sale from Corban University to the applicant indicates that circumstances have shifted. However, the property was conveyed to Corban by the Department of Corrections (DOC) with the intent that Corban would hold the property as open space and recreational facilities as part of the DOC's "soft perimeter." The sale to the applicant was in opposition to the intent of the parties and the proposed development under the proposed designation will create additional difficulties for DOC as well as adversely impact the Joseph Street neighbors by creating the substantial change that the land use process is intended to avoid. Suggesting that the change in ownership of a property creates or indicates a change in circumstance would allow any property speculator to change the zoning and designation of a property to an inappropriate use based solely on the nature of the individual or entity purchasing the property.

Finding: The applicant is required to demonstrate that the proposal meets only one of the justifications – alteration in circumstances, equally or better suited designation, or conflict between comprehensive plan map designation

and zone designation. Staff concurred with the applicant that the proposal is justified based on the proposed designation being equally or better suited for the property than the current designation and, secondarily, stated that the sale of the property to a private party renders the “Community Service-Government” designation inappropriate. Staff has received no documentation from the applicant or other parties indicating that there are any deed restrictions or other recorded conditions that would require that the property be held in perpetuity as open space and/or recreational facilities as part of DOC’s “soft perimeter” for security purposes. The Department of Corrections received notice of the application and has not provided comments.

- (b) **Comment:** SRC 64.025(e)(2)(A)(ii) allows the applicant to demonstrate that the amendment is justified because the proposed designation is equally or better suited for the property than the existing designation. The applicant states that the proposed designation is equally or better suited because it provides flexibility and marketability for the development of the parcel, but this does not demonstrate a need for the proposed change. Staff and the applicant point to the fact that property has yet to be developed under its current designation and this is an indication that greater flexibility is needed. However, the property has been purposefully maintained in its current state as open space and to provide a soft perimeter for the DOC. The property was partitioned in 2012 and conveyed to Corban with the intention that it remain as open space, suitable for recreational purposes and maintenance of the endangered Oak savanna. This use is appropriate under the existing designation and by failing to provide a proposed use for the property, under the new designation, it is not possible to determine if the proposed use is equally or better suited than the existing use of the subject property.

Staff points to the Regional Economic Analysis Report of May 2011 (EOC) stating that the proposed designation converts underutilized land to an available tract for needed commercial development or needed housing, depending on the ultimate development. However, the applicant has not demonstrated that it plans to develop the property under these permitted uses. Staff indicates that there is an anticipated need for health services as determined by the EOC. While approving the designation change to public health, this will decrease the inventory of land necessary for the identified need for public health services without any indication that the subject property will be used for one of staff’s identified uses. Staff acknowledges that there is a surplus of industrial land in the City, making that argument that change to the proposed designation is necessary to address existing deficits that are highly questionable without a concrete proposal for the property to justify that the proposed change is equally or better suited. Again, it is the applicant’s

burden of proof, and not city staff, to show how the application meets the applicable mandatory approval criteria in all cases. In this case, it is a higher burden based on the impact to the surrounding area. This criterion has not been satisfied, and therefore the application must be denied.

Finding: Staff has received no documentation from the applicant or other parties indicating that there are any deed restrictions or other recorded conditions that would require that the property be held in perpetuity as open space and/or recreational facilities as part of DOC's "soft perimeter" for security purposes or for maintenance of Oak savanna. Staff acknowledges that it is easier to determine that the proposed designations are equally or better suited for the property when the applicant has specified the proposed uses or submitted a development plan, but those items are not required for the current application. Needed commercial development and residential development would be allowed under the proposed designations, as well as light manufacturing and warehouse uses. The proposed designations would allow health services other than medical centers/hospitals.

- (c) **Comment:** SRC 64.025(e)(2)(B) requires the applicant to demonstrate that 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 plan map designation. The subject property is not currently served by the necessary public facilities to serve the uses allowed by the proposed designation. The nearest sewer main available for connection is within Aumsville Highway SE approximately 3500 feet from the subject property. The subject property requires connection to a T or T+ water main and there are no public water mains currently available to serve the proposed development. There is not an existing park in the area to serve the proposed development, requiring an amendment to the Parks System Master Plan to establish a neighborhood park to service the subject property.

The lack of available public services demonstrate that the subject property is not currently capable of supporting uses under the proposed designation and the remote nature of the subject property from the existing public facilities shows that it is not feasible to develop the subject property to the appropriate service level at this time. The applicant has provided no evidence to show that the subject property if capable of being served with the public facilities necessary to support the uses allowed by the proposed comprehensive plan change. As such, this criterion has not been satisfied and this application must be denied.

The applicant and the City of Salem have failed to include information sufficient to demonstrate that adequate stormwater facilities are available. The Mill Creek Industrial Park stormwater management plan separated the area into drainage basins and performed calculations of discharges and

needed facilities to protect the final discharge point Mill Creek. Basin A included the applicant's parcel. The calculations, management plan, constructed facilities and associated discharge permits all fail to provide capacity for the applicant's parcel. The applicant and City of Salem have failed to analyze impacts the Action will have on the MCCC stormwater infrastructure, parties to the stormwater management plan and entities reviewing or permitting discharges.

Finding: The applicant has submitted an application for an Urban Growth Preliminary Declaration, and the Public Works recommendations and conditions demonstrate how the property can be served with the necessary public facilities and services. The applicant is not required to submit utility plans for sewer, water, and stormwater with this application. The applicant or other future developer will be responsible for complying with the conditions and constructing the required facilities in order to develop the property. Detailed utility plans will be evaluated for compliance when site plan review applications are submitted.

- (d) **Comment:** SRC 64.025(e)(2)(C) requires the applicant to demonstrate that the proposed land use designation provides for the logical urbanization of land. As demonstrated by the lack of public services and the current uses in the vicinity, the proposed development of the subject property for any use beyond large acreage residential is out of sequence. The subject property is surrounded by large acreage residential properties as well as Corban and the DOC. The current use is decidedly rural in nature. This is further emphasized by the fact that public facilities are not available for the subject property. Development the subject property out of sequence is not a logical urbanization of land.

Allowing commercial uses along an arterial specifically out of character with the surrounding uses leads to sprawl. If it was advantageous to change zoning the land should have been included in the Mill Creek Corporate Center development district.

Finding: The property is located within the Salem city limits and the Urban Growth Boundary. Nearby development includes educational, institutional, industrial, and commercial uses. The neighboring large acreage residential properties are located outside of the Urban Growth Boundary. The current "Community Service-Government" comprehensive plan designation of the subject property does not promote single-family residential development; the purpose of the designation includes "sites and facilities for such uses as health and medicine, religion, education, culture, government, including cemeteries, airports, and waste disposal."

The current PH (Public and Private Health Services) zoning prohibits single family dwellings other than a dwelling unit for a caretaker on the premises being cared for or guarded (permitted use) or a manufactured home as a dwelling for a caretaker (special use). The proposed designations would allow single family and duplex uses with conditional use approval. The applicant has submitted an application for an Urban Growth Preliminary Declaration, and the Public Works recommendations and conditions demonstrate how the property can be served with the necessary public facilities and services upon development.

(e) **Comment:** SRC 64.025(e)(2)(D) requires the applicant to demonstrate that the proposed land use designation is consistent with the Salem Area Comprehensive Plan and applicable statewide planning goals and administrative rules adopted by the Department of Land Conservation and Development, including:

- **Goal 1: Citizen Involvement.** The application is not consistent with Goal 1. The applicant has not made an effort to reach out to SEMCA or the neighboring property owners and has been vague and non-committal as to the nature of the proposed use. Without a clear picture of the ultimate use of the property there cannot be meaningful engagement by citizens in the process.

Finding: Goal 1 requires that citizens must be given the opportunity to participate in the land use process. The Salem Revised Code does not require that applicants contact the affected neighborhood association(s) or neighboring property owners prior to application submittal. Staff recommended in the pre-application conference summary letter that the applicant contact SEMCA and provided contact information. Staff provided a courtesy notification of the application to SEMCA, a request for comments and Hearing Notice to SEMCA, and the required hearing notice to the neighboring property owners within 250 feet of the subject property, and hearing notice was posted on the property. The applicant is not required to propose specific uses or submit a development plan for the current application for land use designations.

- **Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources.** The application is not consistent with Goal 5 because the application has not meaningfully addressed the goal. A substantial portion of the subject property is covered by White Oak Savanna. The State and City have recognized that White Oak is a protected tree and that the Oak Savanna is home to a variety of threatened and endangered species. The offer of a tree preservation plan at the building permit stage is insufficient to address the preservation of these protected natural resources. DOC

had designated and preserved the property as open space, making up part of its soft perimeter. When the property was conveyed to Corban, it was the intent of the parties that the property remain a designated open space, to be used for recreation by members of Corban. The conveyance of the property to the applicant went against the intent of the parties to maintain the natural resources. Both staff and applicant's statements regarding the inability to develop the subject property under the current designation ignores the historical use of the subject property as dedicated open space.

Finding: Staff has received no documentation from the applicant or other parties indicating that there are any deed restrictions or other recorded conditions that would require that the property be held in perpetuity as open space and/or recreational facilities as part of DOC's "soft perimeter" for security purposes or for maintenance of Oak savanna. The City's tree preservation ordinance protects Oregon white oaks of 24 inches or greater diameter, measured at 4.5 feet above grade, as significant trees. Removal of significant trees from properties other than those developed for single-family or two-family uses generally requires a tree removal permit or variance; significant tree removal for single-family or two-family uses may be accomplished through a tree conservation plan. However, removal of Oregon white oaks (*Quercus garryana*) is exempt from a permit where the removal is necessary in connection with construction of a commercial or industrial facility; a request for exemption would be processed through a Class 3 Site Plan Review at the time of development, and the applicant would have to demonstrate that removal is necessary. For removal of trees other than significant trees prior to development, a permit would be required to remove more than five trees or 15 percent of the trees, whichever is greater, within a single calendar year, or more than 50 percent of the trees within any five consecutive calendar years.

To ensure that the significant trees and existing, smaller oak trees within the savanna are preserved to the greatest extent possible, the Planning Commission adopts the following additional conditions for the corresponding zone change:

Condition 1: Prior to development, the applicant shall submit a map and inventory of all trees 10 inches or greater in diameter.

Condition 2: Removal of significant trees from the subject property shall require either a tree removal permit documenting that the trees are hazardous or a tree variance.

Condition 3: The landscaped setbacks from the Joseph Street SE right-of-way and property line abutting the Acreage Residential zone shall be designed to maximize retention of existing trees and non-nuisance vegetation.

- **Goal 12: Transportation.** The application is inconsistent with Goal 12 because the applicant has failed to satisfy the requirements of the Transportation Planning Rule (TPR) and staff's proposal of a condition of approval does not excuse the applicant from the requirements set forth by the TPR. First, since the applicant has not proposed a use, it is not possible to determine whether the use of the subject property will significantly affect the transportation facilities. By applying the proposed trip cap, staff has determined that the development could potentially have a significant effect on the surrounding transportation facilities. This determination indicates that in order for this application to comply with the TPR the City should limit not only the potential trips, but should also designate the potential uses, designations, and design requirements in a way that will mitigate an potential effect development may have on the transportation facilities. Failure to provide sufficient detail regarding the proposed development makes such findings more difficult; however, failure to make such determinations at this stage means that the application cannot satisfy the TPR.

Finding: The determination of significant impact is based upon a comparison of potential trip generation from uses allowed under the current designations and uses allowed under the proposed designations; it is not based upon a comparison of trips generated from the current use -- undeveloped land -- to trips generated from potential uses under the proposed designations. The applicant is not required to specify the uses or provide a development plan for this application for land use designations, and the City is not required to impose conditions that will mitigate any potential effect development may have on transportation facilities.

The applicant submitted an analysis in consideration of the requirements of the Transportation Planning Rule (TPR) (OAR 660-012-0060). In order for the City to make a finding of "no significant effect," either the City places a trip cap that limits the amount of traffic to the volumes allowed under the current land use designation, or the applicant provides traffic analysis that shows any additional traffic (beyond the amount allowed by the current designation) on the transportation system does not have a significant effect. The applicant's traffic engineer did not provide supplemental traffic analysis that shows the additional 160 trips under the

proposed designations is not significant. Therefore, Public Works staff evaluated the TPR analysis and recommended a condition that limits the total number of vehicle trips to the reasonable worst case of 5,948 trips in the original comprehensive plan and zoning designation.

- (f) **Comment:** SRC 64.025(e)(2)(E) requires that the applicant demonstrate that the amendment is in the public interest and would be of general benefit. The applicant has failed to provide evidence to show that this criterion can be satisfied. As the applicant has provided no proposed use, it is impossible for the applicant to argue that the change is necessary or that it provides a general benefit to the City; there is evidence that the change would be detrimental to the public at large by impacting not only the health and safety of the Joseph Street neighbors but creating potential hazards for the DOC by encroaching on the existing “soft perimeter” that the DOC has attempted to maintain surrounding its facility.

Finding: Staff concurred with the applicant’s statement that the proposed designations would benefit the public. The proposed change will allow a wider range of uses including light manufacturing, office, retail, service, and residential uses. The potential uses will provide employment opportunities and services to the general public and support services for nearby residential development, institutional development, and industrial and commercial development. Development of the property would include linking and boundary street improvements and extensions of sewer mains that benefit the public. Staff has received no documentation from the applicant or other parties indicating that there are any deed restrictions or other recorded conditions that would require that the property be held in perpetuity as open space and/or recreational facilities as part of DOC’s “soft perimeter” for security purposes.

3. Zone Change Criteria

- (a) **Comment:** SRC 265.005(e)(1)(A)(iii) allows the applicant to justify the zone change based on the existence of a demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property 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.

The applicant and staff note that the property is steeply sloped, making development of the property subject to geological surveying [assessment]. This, along with the close proximity of the property to the Joseph Street

residential area, is likely part of the reason that the property has historically been used as a buffer between the existing residential properties and the DOC. As such, the development of the property as high density residential or intense commercial use is inappropriate. Thus, the proposed zone change is not equally or better suited but would represent a drastic and illogical shift in the development of the vicinity.

Staff suggests that the proposed zoned change is a logical extension of nearby development. However, the majority of the vicinity is rural residential, Corban property, and property belonging to the DOC. There is no industrial development in the area other than the Home Depot and Amazon Distribution centers on Turner Road [Aumsville Highway SE]. Staff points to these distribution centers as justification for allowing this out-of-sequence development by asserting that the development of these facilities necessitate greater commercial and residential development in the area. However, in addition to the fact that the applicant has failed to demonstrate that this type of development is contemplated, there are several vacant properties as well as countless residential and commercial properties further along Turner Road and Lancaster Drive that have recently developed to or may be developed in the future to meet the needs of these facilities.

Staff also suggests that development of the subject property will provide better vehicular access for abutting properties, however, the staff report also notes that access to the subject property will need to come from Joseph Street SE, as the lowest classification of street in the area. Due to the mandatory distance from the intersection necessary for driveways, this will place the proposed driveway fairly close to the neighboring residential properties, creating potential queuing along Joseph Street SE for those individuals trying to access their homes. As the applicant has not provided a proposed use for the property, there is no way to accurately determine what the ultimate impact of the development will be on the surrounding residential properties.

Finding: The property is steeply sloped. Approximately 50 percent of the property is mapped with areas of 2 and 3 landslide hazard points, and development of these areas would require a geological assessment or geotechnical report. This does not prevent development of the property, but will influence the location and configuration of buildings and other development. The slopes and landslide hazard points on the subject property are similar to those on the Corban property, which is developed with buildings and structures that are similar in size and bulk than those that are likely to be developed on the subject property under the proposed land use designations.

While the nearest adjacent properties are rural residential, those properties are located outside of the city limits and Urban Growth Boundary. The nearest properties within the city are occupied by the Department of Corrections and Corban University. The Mill Creek Corporate Center properties are available for industrial development within one-third of a mile on Deer Park Drive SE and one-half mile on Aumsville Highway SE.

The current zoning designation of the subject property does not allow single family residential development on large lots; the only allowed single-family uses are a dwelling unit for a caretaker on the premises being cared for or guarded (permitted use) or a manufactured home as a dwelling for a caretaker (special use). The proposed IC designations would allow the caretaker uses as well as conditional uses for other household living uses including single family detached dwellings, residential homes, manufactured homes on individual lots, duplexes, or multiple family. If the applicant or another party chooses to develop single family residences on large lots, the proposed designations would allow that with conditional use approvals, land divisions, and extensions of public water and sewer facilities as required under the UGA.

The current and proposed designations both allow (either as permitted or conditional uses) the following non-household living uses:

Residential care, nursing care, nonprofit shelters, drug stores and pharmacies, some types of offices, recreational and community services, parks and open space, outpatient medical services and laboratories, day care, education, governmental services, social services, emergency services, some types of warehousing and distribution facilities, aviation facilities, some types of waste-related facilities, some types of agriculture, forestry, and wildlife rehabilitation facilities.

The additional non-household living uses allowed under the proposed designations include the following conditional uses:

Room and board serving up to 75 persons, long-term commercial lodging, non-profit shelters serving up to 75 persons, nightclubs within 200 feet of a residential zone, firearms wholesalers, wood products and timber wholesalers, drinking water treatment facilities, power generation facilities, solid waste transfer facilities, petroleum and natural gas production, indoor marijuana production, animal shelters, boarding kennels, animal training facilities.

The additional non-household living uses allowed under the proposed designations include the following permitted uses:

Eating and drinking establishments, retail sales, personal services, postal services and retail financial services, offices, audio/visual media production, laboratory research and testing, motor vehicle and manufactured dwelling and trailer sales, motor vehicle services, commercial parking, park-and-ride facilities, taxicabs and car services, heavy vehicle and trailer sales, heavy vehicle and trailer service and storage, commercial entertainment-indoor, commercial entertainment-outdoor, major event entertainment other than race tracks, nonprofit membership assembly, religious assembly, governmental maintenance services and construction, military installations, funeral and cremation services, general repair services, building and grounds services and construction contracting, cleaning plants, industrial services, general wholesaling, some types of heavy wholesaling, warehousing and distribution, self-service storage, some types of general manufacturing, printing, data center facilities, fuel dealers, recycling depots, agriculture and forestry services, animal services.

Any proposed development would be subject to the trip cap on the property. The Planning Commission could consider prohibiting certain uses to limit impacts other than traffic on the subject property and adjacent properties.

While Joseph Street SE abutting the subject property is inside the city limits, the westerly 850 feet of the Joseph Street SE frontage is located inside the UGB, and the remainder of the frontage is outside of the UGB. Street improvements along Joseph Street will vary based on the location of driveway approaches serving the development. If no access is taken from Joseph Street, then improvements will be limited to the portion of Joseph located within the UGB. If access is taken from Joseph Street, then improvements along the portion outside the UGB shall be limited to a pavement widening to 30 feet total width. This modification will ensure that Joseph Street outside the UGB will retain its rural character, but also provide safe access for vehicular and non-vehicular traffic in the area.

Chapter 804.025(a) would require a Class 2 driveway approach permit for a use on the subject property other than single family or two family. The Class 2 driveway approach criteria require, in part, that: the number of driveway approaches onto an arterial are minimized; the proposed driveway approach, where possible, shall be shared with an adjacent property or take access from the lowest classification of street abutting the property; the proposed driveway approach does not result in significant adverse impacts to the vicinity; the driveway approach minimizes impact to the functionality of adjacent streets

and intersections; and the proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets. For the subject property, the criteria would generally require access from the local street, Joseph Street SE, rather than Aumsville Highway SE, the minor arterial. Constructing a driveway on Joseph Street SE, even on the portion within the city limits and UGB, would create additional traffic on the section of Joseph Street SE that is outside the UGB and not developed to support urban uses. Therefore, the Planning Commission adopts the following conditions:

Condition 4: No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is inside the Urban Growth Boundary unless a variance is obtained from this condition.

Condition 5: No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is outside the Urban Growth Boundary.

- (b) **Comment:** SRC 265.005(e)(1)(D) requires that the applicant demonstrate the zone change complies with the applicable statewide planning goals and applicable administrative rules adopted by the Department of Land Conservation and Development. As stated previously, the application is not consistent with Goal 1, Goal 5, or Goal 12.

Finding: Findings for each Goal are included in the findings for the Comprehensive Plan Amendment above.

- (c) **Comment:** SRC 265.005(e)(1)(F) requires that the applicant demonstrate that 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. The applicant provided a TPR Analysis prepared by Karl Birky. As the applicant has not proposed a use for the property, Mr. Birky compared several potential uses for the subject property under both the current and proposed zoning. The TPR analysis shows that the proposed zone change has the potential to add 160 trips to the transportation facilities surrounding the property. However, given that there is no proposed use for the subject property, it is impossible to know what the true impact a zone change might have on the surrounding transportation facilities. The Joseph Street neighbors are keenly aware that the existing transportation facilities in the area are already overtaxed. The nearby intersection of Joseph Street SE and Aumsville Highway is dangerous when there is minimal traffic present. Additionally, there are several families with young children in the area and countless residents that use the facilities in the area for recreational uses including walking, running, and bike riding. Adding even the minimum 160 trips to

the vicinity will impact the existing residents' ability to safely use the existing transportation facilities.

The application fails to properly consider traffic impacts to all of Joseph Street. The TPR incorrectly derives a reasonable worst-case trip generation of 5,948 ADT for the existing zoning. It is nearly impossible much less reasonable to expect a 100,000 square foot medical office to fit the site given the needed improvements, streets on both sides, slopes which nearly reach landslide designation and an existing high voltage power line easement dissecting the property. The realistic worst case carried forward in a proposed condition of approval fails to properly address traffic impacts. The use of upper Joseph to access Highway 22 has not been studied much less protected from increased traffic and the pollution it causes. There has been a significant increase in traffic, traffic noise and other pollution because of the development district. A TPR letter is far from ensuring our street remains safe and unimpacted by the development. A letter with faulty assumptions is insufficient to demonstrate compliance.

The lack of a direct connection to Highway 22 from the Mill Creek Corporate Center has led to the unintentional consequences of turning a rural road into a minor highway. The design of our rural driveways is not compatible with thousands of vehicles and the new truck/commercial traffic traveling at highway speeds. The proposed action could allow uses that may cause additional safety concerns. Wide or heavy loads, chemical or other industrial components, unsavory industry is all possible with a change.

Finding: The determination of significant impact is based upon a comparison of potential trip generation from uses allowed under the current designations and uses allowed under the proposed designations; it is not based upon a comparison of trips generated from the current use -- undeveloped land -- to trips generated from potential uses under the proposed designations. The applicant is not required to specify the uses or provide a development plan for this application for land use designations, and the City is not required to impose conditions that will mitigate any potential effect development may have on transportation facilities.

The applicant submitted an analysis in consideration of the requirements of the Transportation Planning Rule (TPR) (OAR 660-012-0060). In order for the City to make a finding of "no significant effect," either the City places a trip cap that limits the amount of traffic to the volumes allowed under the current land use designation, or the applicant provides traffic analysis that shows any additional traffic (beyond the amount allowed by the current designation) on the transportation system does not have a significant effect. The applicant's traffic engineer did not provide supplemental traffic analysis that shows the additional

160 trips under the proposed designations is not significant. Therefore, Public Works staff evaluated the TPR analysis and recommended the condition that limits the total number of vehicle trips to the reasonable worst case of 5,948 trips in the original comprehensive plan and zoning designation.

- (d) **Comment:** SRC 265.005(e)(1)(G) requires that the applicant demonstrate that 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. As demonstrated above, the subject property is not currently served or capable of being served by public facilities at this time.

Finding: The applicant has submitted an application for an Urban Growth Preliminary Declaration, and the Public Works recommendations and conditions demonstrate how the property can be served with the necessary public facilities and services. The applicant is not required to submit engineering plans with this application. The applicant or other future developer will be responsible for complying with the conditions and constructing the required facilities in order to develop the property.

- (e) **Comment:** SRC 265.005(e)(2) states, the greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied. The applicant has not provided a proposed or anticipated use for the subject property. The applicant's statement states that the application is for "uses permitted in the IC zone." Without providing a specified use for the subject property, the city is unable to accurately determine the impact that the proposed development will have on the vicinity. The land use process is designed to provide for flexibility while maintaining a systematic, long term development pattern that meet the needs and goals of the local community and the state. Without providing detail as to the proposed development of the subject property, the applicant is not able to demonstrate the need for the change and is therefore unable to carry its burden that the criteria are satisfied.

Finding: A specific use and development plan are not required for the comprehensive plan change and zone change application. The staff analysis is based on an evaluation of the potential uses in the proposed zone.

4. **Urban Growth Preliminary Declaration**

Comment: SRC 200.025(c) requires that the applicant provide the proposed or anticipated use. The applicant has failed to provide an anticipated or proposed use. Without knowing the proposed use of the subject property, the City is unable to make an accurate determination regarding the impact of the proposed development and is therefore unable to determine the applicable infrastructure necessary to provide services. As the applicant is also submitting a zone change

application and a comprehensive plan amendment, the applicant's failure to provide a proposed use suggests that the applicant either does not have a proposed use for the development, indicating that they fail to show the need to change either the comprehensive plan designation or the zoning for the property, or, in the alternative, the applicant is intentionally attempting to obfuscate the planned development thereby insulating the project from heightened scrutiny and denying the Joseph Street neighbors the opportunity to object based on the full weight of the proposed change. The former shows that the applicant fails to meet its burden and the latter is expressly contrary to Statewide Goal 1 which aims to provide affected parties with the opportunity to object to development plans that impact their community.

Finding: The applicant stated that the proposed use is "uses permitted in the IC zone." While this is not specific, staff was able to determine the linking and boundary facilities that would be required for the uses that would be allowed in the IC zone.

5. Other Comments Not Addressing Specific Criteria

(a) **Comment:** Development of this property would create conflict with farm uses on adjoining exclusive farm use (EFU) properties. Neighbors may have concerns about farm practices including application of lime, pesticides, herbicides, burning, propane cannons, etc. Marion County recently denied a conditional use and stated that "Non-farm dwellings generally create conflicts with accepted agricultural practices....The EFU zone is intended to be a farm zone...."

Finding: The subject property abuts property zoned Acreage Residential and is across Joseph Street SE from properties zoned Special Agriculture. Under the proposed zoning, the minimum required landscaped setbacks would be 5 feet from the right-of-way on Joseph Street SE, planted with one plant unit per 20 square feet, and 30 feet from the abutting Acreage Residential zone, planted with one plant unit per 20 square feet and screened with a minimum 6-foot-tall sight-obscuring fence or wall. To reduce possible conflicts regarding agricultural practices on nearby properties, the landscaped setback on the Joseph Street side of the property shall be increased through the following condition of approval:

Condition 7: The minimum setback from the Joseph Street SE right-of-way shall be 30 feet, landscaped with a minimum of one plant unit per 20 square feet.

- (b) **Comment:** Development of the property with apartments or commercial buildings would reduce property values on neighboring properties.

Finding: The criteria for approval do not require evaluation of possible reduction of property value on nearby properties.

- (c) **Comment:** Development of the property could result in the neighboring properties being annexed into the city or forced to connect to city water/sewer, and increased taxes will create a financial burden.

Finding: The properties in the Joseph Street neighborhood are outside of the Urban Growth Boundary and cannot be annexed or forced to connect to city water or sewer.

- (d) **Comment:** Traffic in the area has increased and vehicles exceed the speed limit, creating hazards for drivers, pedestrians, and bicyclists. Dense development on the subject property would make activities unsafe for children. There are no sidewalks on either portion of Joseph Street SE and many blind spots on the hills and corners.

Finding: With the adopted conditions of approval, the requested comprehensive plan change and zone change will not have a significant effect on the existing transportation system beyond what the current land use designations would allow. The conditions of approval require right-of-way dedication and improvements on Aumsville Highway SE that will include a bike lane and sidewalk. The adopted conditions of approval require access from Aumsville Highway SE unless a variance is granted in the future. If access is allowed from Joseph Street SE, the conditions require street improvements including sidewalks on the portion of the street that is in the city limits.

- (e) **Comment:** Development on the property could increase vandalism and crime.

Finding: The criteria for approval do not require evaluation of possible increases in crime rate.

- (f) **Comment:** The land is not suited for residential development. The land is rocky and steep. Developing the property would require major excavation and significant dynamite use. The best use of the land is for goat grazing and should be zoned as such.

Finding: Keeping of livestock such as goats is not a permitted use under the current land use designations or the proposed land use designations.

- (g) **Comment:** The widening of Joseph Street SE and soil compaction could be fatal to large existing trees on neighboring properties on Joseph Street SE.

Finding: The adopted conditions of approval would require a linking street improvement on the subject property's frontage on Joseph Street SE that is outside the Urban Growth Boundary only if a driveway is approved on the section of Joseph Street SE inside the Urban Growth Boundary through a variance.

CONDITIONS OF APPROVAL

COMPREHENSIVE PLAN MAP CHANGE AND ZONE CHANGE

- Condition 1:** Prior to development, the applicant shall submit a map and inventory of all trees 10 inches or greater in diameter.
- Condition 2:** Removal of significant trees from the subject property shall require either a tree removal permit documenting that the trees are hazardous or a tree variance.
- Condition 3:** The landscaped setbacks from the Joseph Street SE right-of-way and property line abutting the Acreage Residential zone shall be designed to maximize retention of existing trees and non-nuisance vegetation.
- Condition 4:** No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is inside the Urban Growth Boundary unless a variance is obtained from this condition.
- Condition 5:** No driveways shall be allowed from the subject property onto the section of Joseph Street SE that is outside the Urban Growth Boundary.
- Condition 6:** Transportation impacts from the 15-acre site shall be limited to a maximum total of 5,948 vehicle trips per day.
- Condition 7:** The minimum setback from the Joseph Street SE right-of-way shall be 30 feet, landscaped with a minimum of one plant unit per 20 square feet.

URBAN GROWTH PRELIMINARY DECLARATION

- Condition 8:** Convey land for dedication to equal a half-width right-of-way of 36 feet along the entire frontage of Aumsville Highway SE.
- Condition 9:** Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located within the Urban Growth Boundary.
- Condition 10:** Along the entire frontage of Aumsville Highway SE, construct a three-quarter street improvement to Minor Arterial standards of 23 feet from centerline on the development side and 12 feet wide on the opposite side. Additional pavement width shall be required as set forth in the Public Works Design Standards (PWDS) to provide a left-turn lane at each driveway approach proposed along Aumsville Highway SE.
- Condition 11:** If a driveway approach is constructed along Joseph Street to provide vehicular access to the proposed development:
- d. Convey land for dedication to equal a half-width right-of-way of 30 feet along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary.
 - e. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side;
 - f. Along the portion of frontage where Joseph Street SE is located outside the Urban Growth Boundary, construct a 30-foot-wide linking street improvement.
- Condition 12:** If no driveway approach is constructed along Joseph Street SE to provide vehicular access to the proposed development and access is provided exclusively from Aumsville Highway, either:
- c. Along the portion of frontage where Joseph Street SE is located inside the Urban Growth Boundary, construct a three-quarter street improvement to Local street standards of 15 feet from centerline on the development side and 12-foot-wide on the opposite side; or

- d. Pay a temporary access fee of \$85,000 pursuant to SRC 200.080.

Condition 13: Construct a minimum 8-inch sewer main from the nearest adequate sewer to the subject property. The nearest adequate linking facility is currently an existing 15-inch sewer line in Aumsville Highway SE, approximately 0.64 miles northwest of the subject property.

Condition 14: Construct the following water facilities consistent with the *Water System Master Plan* and as approved by the Public Works Director:

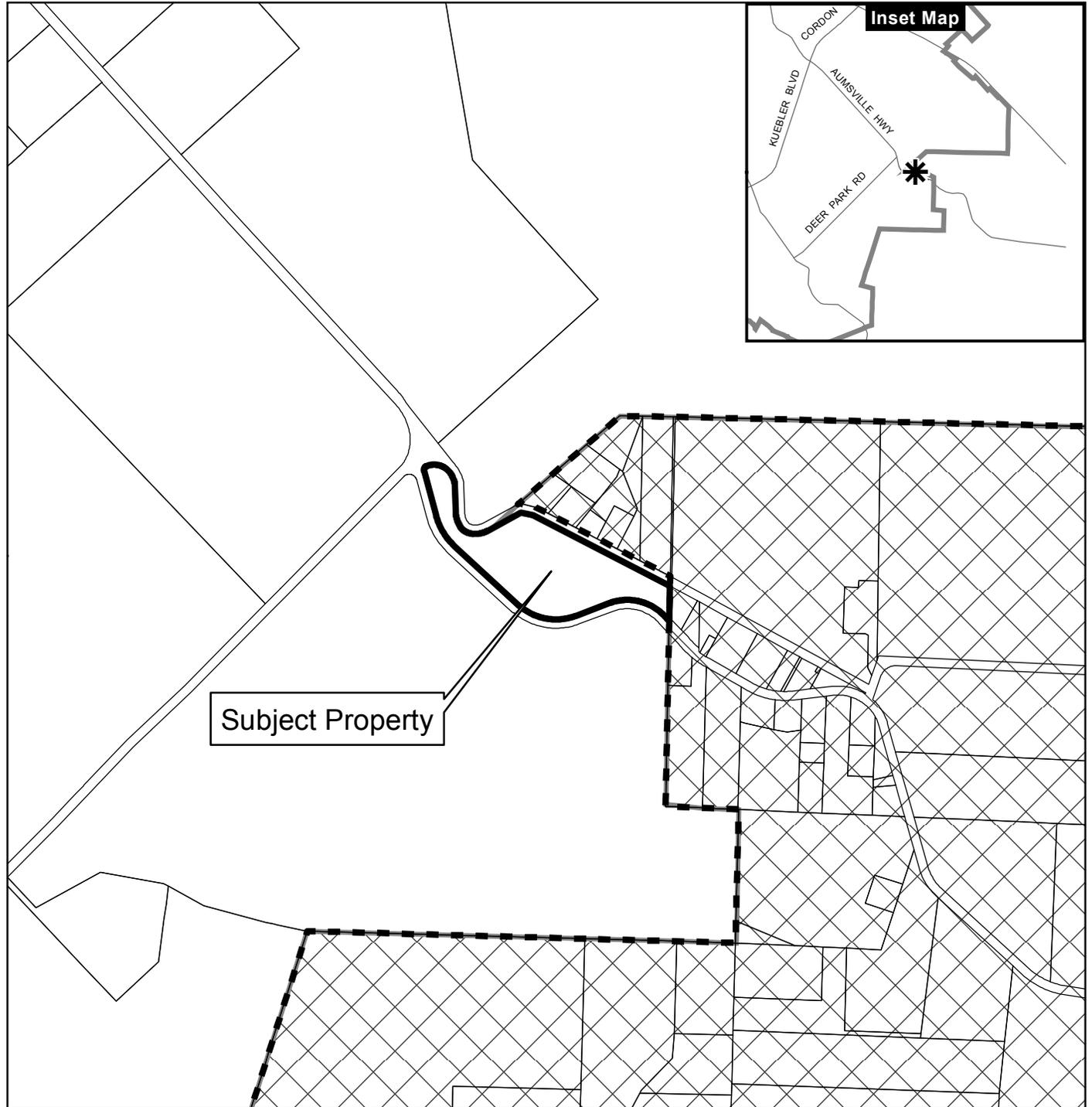
- a. Construct an S-2 pump station to serve the S-2 water service area in the vicinity of the subject property; and
- b. Construct S-1 main(s) from the existing S-1 water system to the new S-2 pump station; and
- c. Construct S-2 main(s) from the pump station to the subject property; and
- d. Construct S-2 main(s) along the boundary of the subject property to serve adjacent properties pursuant to Public Works Design Standard.

Condition 15: As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- a. Convey or acquire 2 acres of property for dedication of neighborhood park facility NP-41, NP-44, or equivalent; or
- b. Pay a temporary access fee of \$72,450 pursuant to SRC 200.080(a).

Vicinity Map

4195 Aumsville Highway SE (082W0800110)



Legend

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


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