

## **Criteria and Findings for Proposed Comprehensive Plan Map Amendment for an approximately 0.56-acre site at 2440 McGilchrist Street SE from “Industrial” to “Industrial Commercial”**

### **Procedural Findings**

On January 12, 2017, John L. Brosy, on behalf of applicant Ryan Salas-Mitchell, filed an application for a Comprehensive Plan Change and Zone Change to change the Comprehensive Plan Map designation of the subject property from “Industrial” to “Industrial Commercial” and to change the zoning from IG (General Industrial) to IC (Industrial Commercial).

The application was deemed complete for processing on March 14, 2017. Notice of the consolidated proposal was distributed to City departments and public and private service providers on March 21, 2017 and was mailed to the owners of all property within 250 feet of the subject property on April 5, 2017. 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 March 14, 2017.

Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Therefore, on April 25, 2017, the Planning Commission held a public hearing on the consolidated applications and recommended to the City Council that they approve the proposed Comprehensive Plan Map Change. Additionally, the Planning Commission approved the Zone Change application, contingent on the City Council’s approval of the Comprehensive Plan Map Change.

### **FINDINGS APPLYING THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A COMPREHENSIVE PLAN 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 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.”<sup>1</sup> This intent statement closely reflects the nature of uses which have been developed under both “Industrial” and “Industrial Commercial” designations a variety of designations along 25<sup>th</sup> Street SE from just south of the subject property north to the intersection with State Highway 22. Existing uses in the immediate vicinity include masonry and carpeting wholesalers, a retail cellphone store, a testing clinic, and the Salem Municipal Airport.

Utilities and services are available to support either commercial or light industrial development on the subject property, and the site is situated at the corner of two Major Arterial streets. By allowing some a wider range of retail and employment-focused commercial uses, the proposed Comprehensive Plan Map change would help address the existing shortfall of commercial land, particularly in small clustered areas outside of downtown and primary commercial corridors. Light industrial uses within the wholesale and light manufacturing sectors, such as those found on adjacent properties within both the “Industrial” and “Industrial Commercial” designations would continue to be allowed. The longstanding retail uses on the subject property indicate that the slightly wider range of uses allowed would not interfere with surrounding mix of heavy commercial

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<sup>1</sup> *Salem Area Comprehensive Plan*, pg. 9.

and light industrial development or result in foreseeable conflicts between non-compatible uses. Therefore, staff finds that the Industrial Commercial designation and IC zoning proposed by the applicant is better suited to the subject property than the existing "Industrial" designation and IG zoning.

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 Public Works Department has reviewed the proposal and finds that, although the property is located outside of the Urban Service Area, public facilities are available in the vicinity of the subject property. Conditions of approval establish required mitigation for anticipated impacts to the traffic system from an "Industrial Commercial" designation on the site. The City of Salem Urban Renewal Agency is in the process of developing design improvements to the McGilchrist Street corridor between 12<sup>th</sup> Street SE and 25<sup>th</sup> Street SE, including the northern frontage of the subject property. The proposed improvements would further enhance arterial access to the subject property. The proposal meets this criterion.

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

**Finding:** The Planning Commission concurs with the applicant's statement, which states in relevant part:

*"This application represents a relatively minor adjustment from one industrial plan and zone designation to another, more appropriate one. For whatever historical reason, the subject property is located outside the City's Urban Service Area, but this is considered a very minor issue, given the fully improved urban nature of the area, and the City's commitment in the form of the urban renewal district. The pattern of IC on this side of 25<sup>th</sup> [Street] is continuous from Mission Street to the airport entrance roads, except for this parcel and the one to the south. The inclusion of IC on this parcel certainly represents a logical extension of the commercial services uses that still compliment, not conflict with the industrial character of the surrounding area."*

The Planning Commission finds that the proposed "Industrial Commercial" designation is a logical extension of the heavy commercial and wholesaling cluster centered on the intersection of 25<sup>th</sup> Street and McGilchrist Street. Development standards in the proposed IC zoning district and the existing development pattern in the vicinity provide buffering between this industrial commercial cluster and and more intensive industrial uses to the south and west.

The proposal 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:** The applicable Goals and Policies of the Comprehensive Plan are addressed as follows:

Salem Urban Area Goals and Policies, Commercial Development Goal (Page 34, 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 the residential streets and provisions for connectivity to the facilities for pedestrians and bicyclists from residential neighborhoods.*

**Finding:** McGilchrist Street SE and 25<sup>th</sup> Street SE provide arterial access directly from the subject property to and from the regional transportation network. The site itself is located across the street from Salem Municipal Airport and amongst a mix of commercial and light industrial development, distant from residential neighborhoods. Many nearby commercial uses tend to provide heavy goods, such as construction supplies, and tend to serve a citywide or regional market area.

Salem Urban Area Goals and Policies, Industrial Development Goal (Page 37, 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 some characteristics of high value industrial land, including a relatively flat parcel, highway access, and available utilities. However, the property is less than one acre in size, well under the 10-acre minimum described in the policy, and is within an area characterized by a mix of commercial and light industrial uses, rather than an coherent district of larger-scale 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).” The parcel sizes and mix of uses found in the vicinity of the subject

property clearly do not meet the ideal location of high value properties within a cohesive “industrial district.”

The Industrial Commercial designation and corresponding IC zone permit a wide range of industrial uses, as evidenced by the construction and auto parts wholesaling uses on adjacent sites zoned IC. Development patterns in the immediate vicinity have reflected a mix of industrial and commercial uses as afforded by the IC zone. Amending the Plan Map to designate the subject property Industrial Commercial would maintain the overall acreage available within the UGB for industrial uses, while allowing for a range of uses that more closely aligns with the overall land use trend in the area.

*Policy I.2. Identify areas that may be appropriate for converting from industrial to commercial or other non-industrial uses over the long-term. The characteristics of industrial land that may be appropriate for commercial or other non-industrial uses include some or all of the following: (1) located outside of industrial areas or isolated from other industrial uses, (2) surrounded by incompatible uses (such as housing), (3) located adjacent to properties that have converted to commercial uses, (4) have limited or no access to major roads (such as arterial streets, collector streets, or highways), or (5) lacks rail access.*

**Finding:** In 2015, the City completed an Economic Opportunities Analysis (EOA) for areas within the Salem Urban Growth Boundary for the years 2015 to 2035. The study found a surplus of 907 acres of industrial land within the Salem UGB and a shortage of 271 acres for commercial uses. In response to these findings, the EOA included a recommendation to identify industrial land most suitable for conversion to commercial designations. This recommendation was implemented through Industrial Policy I.2.

Although the IC (Industrial Commercial) zoning proposed by the applicant allows many of the same wholesaling and manufacturing activities as the existing IG (General Industrial) zoning, the proposal would replace the exclusively “Industrial” designation of the property on the current Plan Map with the more flexible “Industrial Commercial” designation. Accordingly, the proposal could be interpreted as converting industrial land to partially commercial or other non-industrial land. Under this interpretation, the proposal is still an appropriate area for conversion to commercial uses under the criteria established in Policy I.2, as summarized below.

*(1) Located outside of industrial areas or isolated from other industrial uses*

The property is located outside of an industrial “district” as defined in Policy I.16. Perhaps due to the small size of parcels and resulting development pattern, nearby industrial uses tend to focus on small-footprint, customer-facing wholesale distribution rather than more intensive manufacturing processes. The Salem Municipal Airport and Stone Quarry Lake also add to the buffer of compatible non-industrial uses in the nearby vicinity.

*(2) Surrounded by incompatible uses (such as housing)*

Uses surrounding the subject property are generally compatible with industrial uses.

*(3) Located adjacent to properties that have converted to commercial uses*

The subject property itself has been used as a credit union retail branch and a drive-through coffee shop. The abutting property to the south is developed with a commercial building with suites suited to retail or office uses. Properties in the immediate vicinity include a mix of heavy retailing/light wholesaling outlets, such as building and auto supply warehouses. Spinnaker Place, a five-story office complex, is located approximately 500 feet to the south of the subject property at 2601 25<sup>th</sup> Street SE.

*(4) have limited or no access to major roads (such as arterial streets, collector streets, or highways)*

The subject property has excellent access to major roads, both arterials and highways. This criterion does not support conversion to commercial uses.

*(5) lacks rail access*

The nearest rail line is a spur from the Union Pacific line, approximately one-half mile to the southwest, and separated from the subject property by numerous privately-held and developed lots.

The proposal 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 Salem Neighborhood 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:** The Planning Commission concurs with the applicant's statement, which states in relevant part:

*"This is a developed parcel with improvements including building, parking, and landscaping. The site's use from 2012 to the end of 2016 was a coffee shop, and before that the building was a credit union office. Other than being within a 100-year flood plain, there are no mapped natural resources, scenic or historic areas or open spaces here, and none were identified at the October 20, 2016 pre-application conference. The lack of Goal 5 issues is further established by the property's location within the City's McGilchrist Urban Renewal Area."*

The proposal is consistent with Goal 5.

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

**Finding:** There are no known natural 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. The proposal is consistent with Goal 7.

**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 Planning Commission concurs with the applicant's statement, which states in relevant part:

*"This application 'fine-tunes' the Plan map to best categorize this site as IC instead of IG, recognizing its relatively small (by industrial standards) parcel size and its location at the intersection of two important arterial streets. It is in a position to be a complimentary commercial site for this otherwise industrial neighborhood, as are several other uses of similar parcel size located in this vicinity along 25<sup>th</sup> Street. The minor Comprehensive Plan map amendment will enable a use (retail store) not allowed in the existing Plan and zone (IG), thus improving opportunities for economic activities on this site. In this way the application supports Goal 9, Economic Development."*

The Planning Commission finds that under its current "Industrial" designation, the site's economic development potential is limited because it is less than ten acres in size, and is located within an area characterized by a mix of heavy commercial and light industrial rather than a contiguous "industrial district." The proposed change to Industrial Commercial will increase the number of permitted uses at the site and better takes into account the location of the subject property, thereby open up additional opportunities for economic development, consistent with the intent of Goal 9.

**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 TPR analysis submitted by the applicant demonstrated that, with a “trip cap” of 1,240 average daily trips, the proposed Comprehensive Plan map and zone change will not have a significant effect on the transportation system as defined by OAR 660-012-0060. The Assistant City Traffic Engineer has reviewed the TPR analysis and recommends a condition of approval on the proposed zone change to limit development on the 0.56 acre site to a maximum trip generation of 1,240 average daily trips per day.

**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 1965, and is located within the Urban Growth Boundary (UGB). Although the subject property is located outside of the designated Urban Service Area, comments from the Public Works Department indicate that transportation and utility infrastructure is available in the vicinity. 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 auto-oriented commercial and light industrial uses in the vicinity. The proposal complies with Goal 14.

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

**Finding:** The Planning Commission concurs with the applicant’s statement, which states in relevant part:

*“This is the last approval criterion for minor Plan map amendments. The change supports the City’s related Comprehensive Plan Goals and Policies and the Statewide Goals, does not affect overall industrial land inventory by changing from one industrial category to another, enables a wider variety of viable economic uses for the site, continues an existing, well established pattern of IC*

*uses along 25<sup>th</sup> and the edge of this larger industrial neighborhood, and is a more appropriate designation, given the site's relatively small, non-general industrial size and orientation outward to the fronting streets. In these ways the amendment is in the public interest and would be of general benefit."*

The proposed "Industrial Commercial" is consistent with the existing development on the subject property, historic land uses, and the development pattern in the vicinity. The "Industrial Commercial" designation allows for a wider range of uses appropriate to a relatively small (less than one acre) parcel at the corner of two Major Arterial streets. The proposal satisfies this criterion.