

NOTICE OF DECISION

PLANNING DIVISION
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DECISION OF THE PLANNING COMMISSION

COMPREHENSIVE PLAN MAP AMENDMENT / NEIGHBORHOOD PLAN CHANGE / ZONE CHANGE PLAN REVIEW CASE NO. CPC-NPC-ZC17-04

APPLICATION NO. : 17-101970-ZO, 17-101972-ZO

NOTICE OF DECISION DATE: April 27, 2017

SUMMARY: A consolidated application to change the Comprehensive Plan Map designation, Neighborhood Plan Map designation, and zoning of an approximately 0.56 acre property from "Industrial" with IG (General Industrial) zoning to "Industrial Commercial" with IC (Industrial Commercial) zoning. The property is at the southwest corner of 25th Street SE and McGilchrist Street SE, just west of the Salem Municipal Airport.

REQUEST: The applicant proposes to change the Comprehensive Plan Map designation of the subject property from "Industrial" to "Industrial Commercial" change the Neighborhood Plan Map from "Industrial" to "Industrial Commercial," and change the zoning from IG (General Industrial) to IC (Industrial Commercial). The subject property is approximately 0.56 acres in size, zoned IG (General Industrial), and located at 2440 McGilchrist Street SE (Marion County Assessor map and tax lot number: 073W35DA00800).

APPLICANT: Ryan Salas-Mitchell

LOCATION: 2440 McGilchrist Street SE

CRITERIA: Salem Revised Code Chapter 265.005(e)

FINDINGS: Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Accordingly, upon hearing evidence presented at the public hearing, the Planning Commission may forward a recommendation to the City Council on the Comprehensive Plan Map Change and Neighborhood Plan Map Change and approve or deny the associated applications contingent on the City Council's decision.

The Zone Change findings are in the attached Exhibit dated April 27, 2017.

DECISION:

The Planning Commission **APPROVED** the **Zone Change** Case No. CPC-NPC-ZC17-04 subject to the following conditions of approval:

Condition 1. Cumulative traffic impacts from future development to the subject property shall be limited to a maximum of 1,240 average daily trips generated by the proposed use or uses.

VOTE:

Yes 7 No 0 Absent 2 (Pollock, Smith) Abstention 0


Rich Fry, President
Salem Planning Commission

Application Deemed Complete: March 14, 2017
Public Hearing Date: April 25, 2017
Notice of Decision Mailing Date: April 27, 2017
Decision Effective Date: May 13, 2017

Case Manager: Chris Green, cgreen@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., May 12, 2017**. 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, 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 City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review 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 Quasi-Judicial Zone Change for an
approximately 0.56-acre site at 2240 McGilchrist Street SE from IG (General
Industrial) to IC (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 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 IG (General Industrial) 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 are well-suited to both light industrial or commercial development. The subject property is a mostly flat site and is not encumbered by waterways, wetlands, large amounts of vegetation, or mapped landslide hazards. The site is not suitable for redevelopment as a relatively large-scale, high-intensity industrial use envisioned in the "Industrial" Plan map designation and allowed in the IG (General Industrial) zone. However, the site is well-suited for the range of light industrial, wholesale, and heavy commercial uses allowed in the proposed IC (Industrial Commercial) zone. While not a "high value" industrial site, the subject property has high-visibility frontage at the intersection of two Major Arterials and has been used and developed as a commercial property for over two decades.

The proposed IC zoning and the uses it allows also fits logically with the established land use pattern in the vicinity. In addition to the existing self-service storage complex located approximately 250 feet to the north, the surrounding land uses are compatible with the mix of heavy commercial, storage and distribution, and eating and drinking uses allowed in the IC zone. The existing development pattern of smaller parcels centered on the 25th Street and McGilchrist Street intersection includes several parcels already zoned IC, and is characterized by the range of uses generally allowed in the IC zone. Based on this, the proposed Industrial Commercial zoning is more appropriate for the site than the current General Industrial zoning. The proposal 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: 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 25th 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 25th 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

There 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.

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

Finding: The applicable Statewide Planning Goals are 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 25th 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.

(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 proposed zone change requires a Comprehensive Plan change from the

"Industrial" to "Industrial Commercial" designation. As described above in findings on Comprehensive Plan Industrial Development Policies I.1 and I.2, the subject property does not meet criteria for "high priority" industrial land, and does meet criteria for lands suitable to conversion from industrial to commercial uses. Therefore, to the extent that this change in designation could be interpreted as a change to a non-industrial, or less industrial designation, the proposal is consistent with the needed land identified for economic development and employment growth in the most recent EOA.

However, the IC zone implements both industrial and commercial development policies in the SACP. The IC zone allows a similar range of industrial uses as is allowed in zones which correspond directly to the industrial development goals. Therefore, the IC zone is an industrial zone, and the Industrial Commercial designation is an industrial designation. The proposal does not remove any industrial, commercial, or employment designation on the subject property. 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 applicant submitted a Transportation Planning Rule (TPR) analysis, which addressed the question of whether traffic generated by development of the site under the proposed IC zone would significantly affect the surrounding transportation infrastructure, when compared to the amount of traffic that could be generated under the existing IG zone.

The applicant's TPR analysis (Attachment E) concludes that the site could generate up to 1,240 average daily trips (ADT) if developed under a worst case scenario in terms of traffic generation under the existing IG zoning. The analysis proposes a limit of 1,240 ADT to be included as a condition upon this re-zone request. 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. In order to ensure that future uses on the re-zoned site will not generate more average daily trips than the site could potentially generate under the current plan map designation, the following condition shall apply:

Condition 1: Cumulative traffic impacts from future development to the subject property shall be limited to a maximum of 1,240 average daily trips generated by the proposed use or uses.

As conditioned, the proposal meets this criterion.

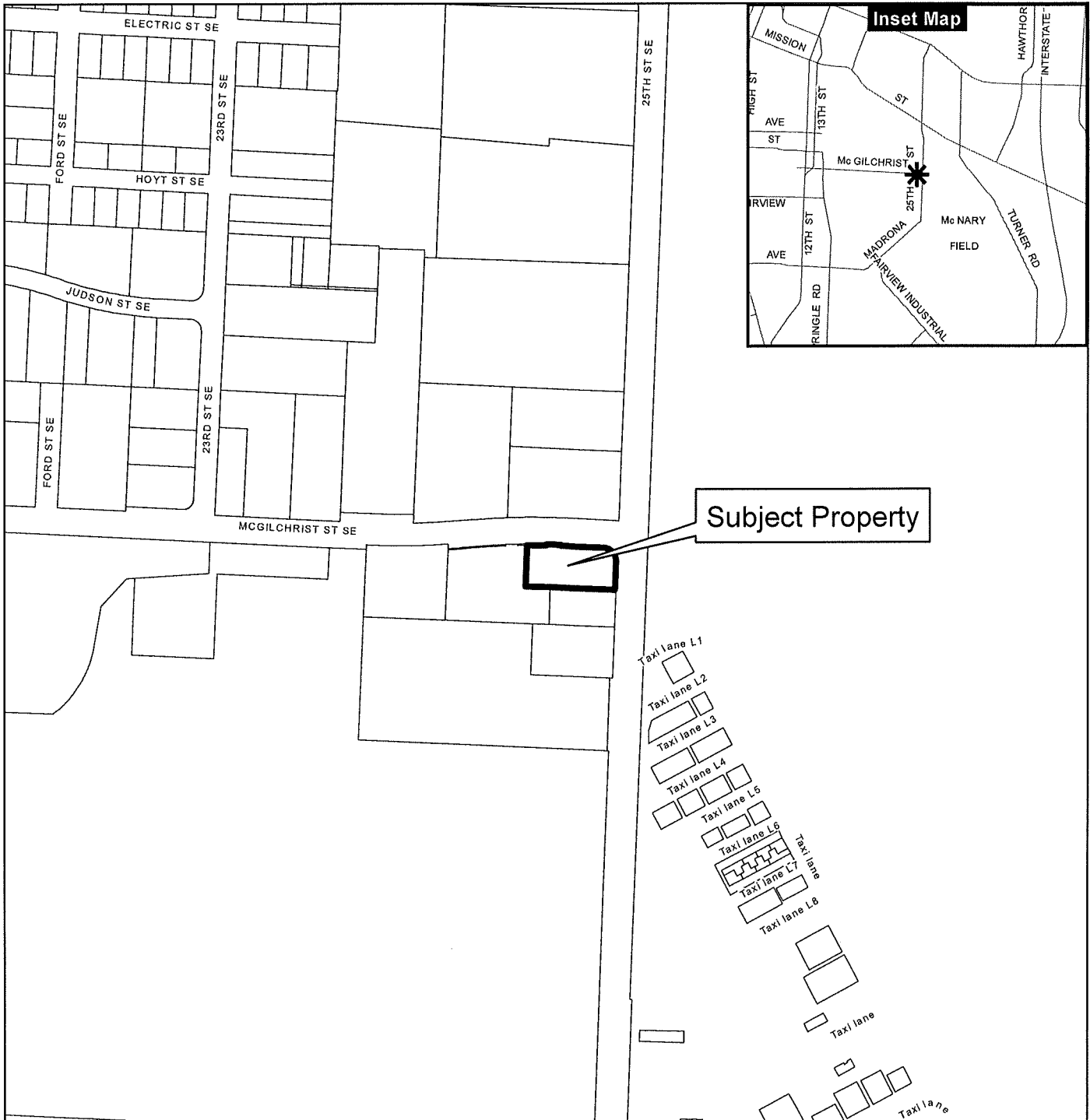
(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed in the proposed zone.

Finding: 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 12th Street SE and 25th 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.

Vicinity Map

2440 McGilchrist Street SE



Legend

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

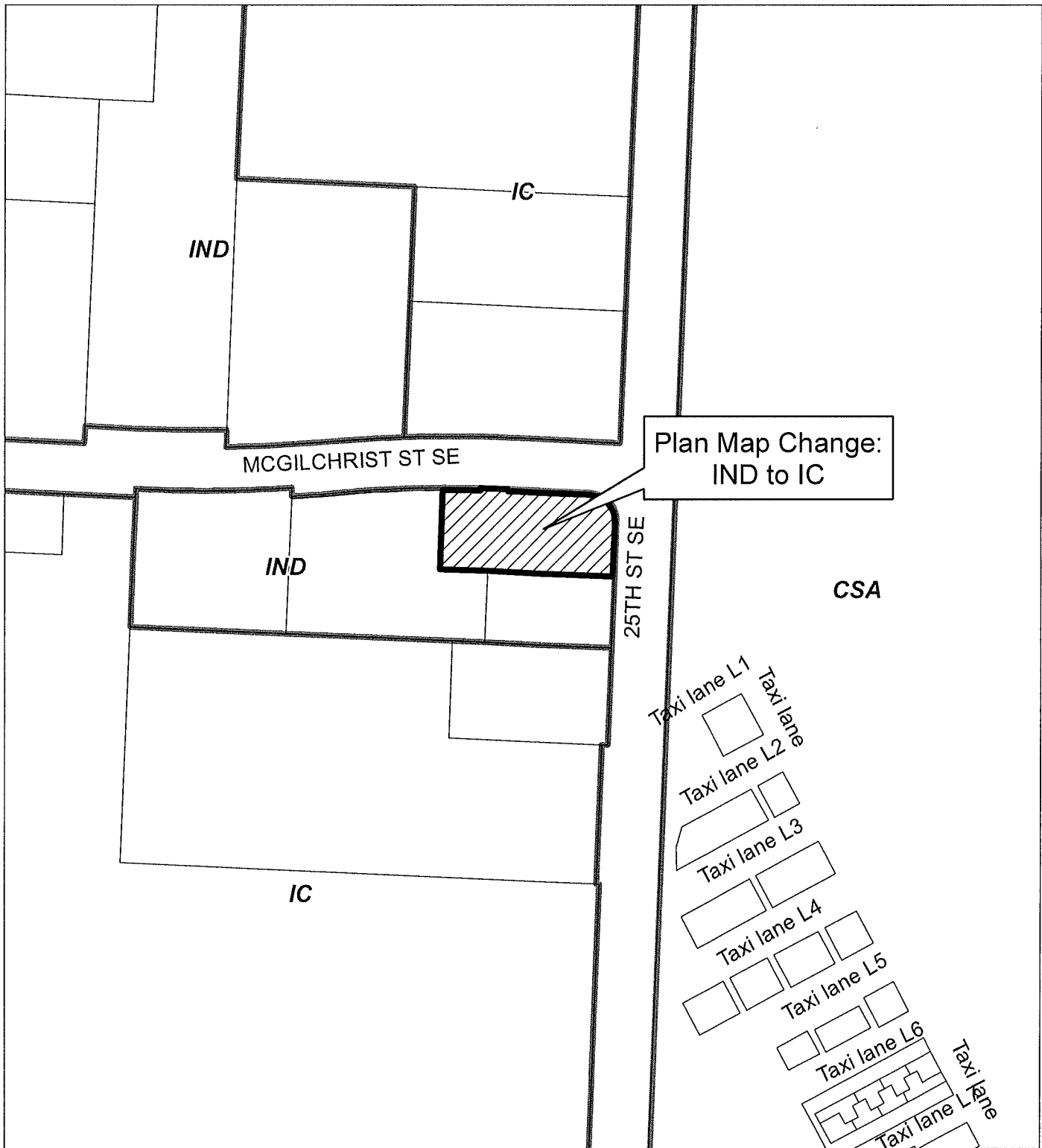
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Comprehensive Plan Map - 2440 McGilchrist St. SE



Legend

- | | |
|---------------------------|---------|
| Comprehensive Plan | Taxlots |
| Urban Growth Boundary | Parks |
| Outside Salem City Limits | Schools |

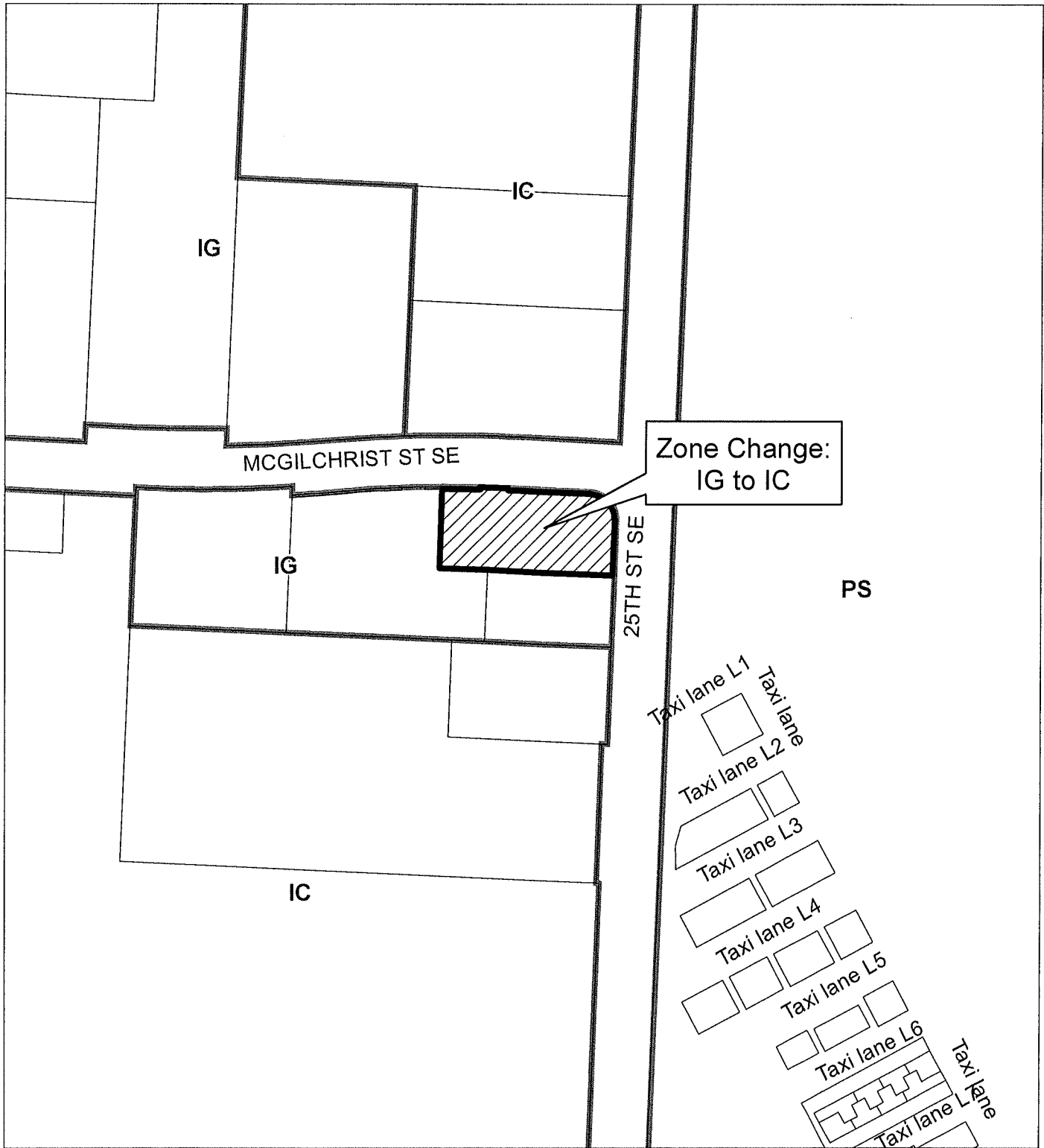
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Zoning Map - 2440 McGilchrist St. SE



Legend

- | | |
|--|---|
|  Base Zoning |  Taxlots |
|  Urban Growth Boundary |  Parks |
|  Outside Salem City Limits |  Schools |

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