

EXHIBIT C

FACTS AND FINDINGS FOR ORDINANCE BILL NO. 13-21 CODE AMENDMENT AND LEGISLATIVE ZONE CHANGE CASE NO. CA-ZC21-01 (2021 UNIFIED DEVELOPMENT CODE UPDATE)

SUBSTANTIVE FINDINGS

1. Approval Criteria for Amendments to the Unified Development Code (UDC)

Salem Revised Code (SRC) 110.085 sets forth the following criteria that must be met in order for an amendment to the code to be approved. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposal's conformance with the criteria.

(1) ***The amendment is in the best interest of the public health, safety, and welfare of the City.***

Finding: The proposed amendments are in the best interest of the public health, safety, and welfare of the City because they update and clarify various land use procedures and development standards throughout the development code which helps to create greater certainty for applicants, stakeholders, and the broader community; they update the development code to comply with new requirements resulting from recent changes in State law, thereby ensuring the development code is kept current and up-to-date; and they incorporate various improvements to the code identified by staff and the community.

The proposed amendments establish increased tree preservation and protection measures associated with development which will help the City maintain its urban tree canopy. The amendments increase the variety of housing types allowed within the City's residential zones, as required under State House Bill 2001, which will help to provide for greater housing choice, diversity, and affordability within residential neighborhoods. The amendments establish an approval process and associated development standards for the siting of managed temporary camping areas in order to help address homelessness within the City by providing temporary living accommodations to individuals in a managed and secure environment with consistent access to on-site restrooms, storage, garbage removal, and additional services. This approval criterion is met.

(2) ***The amendment conforms with the Salem Area Comprehensive Plan, applicable Statewide Planning Goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.***

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

The proposed amendments reviewed for conformance with the applicable goals and policies of the SACP. The following SACP goals and policies relate to the proposed amendments:

- **Urban Growth Policy C.4 – Infill:** *Development of land with existing urban services shall be encouraged before the conversion of urbanizable lands to urban uses.*
- **Growth Management 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.*
- **Growth Management 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.*

The proposed amendments are consistent with the above SACP policies relating to infill development because they implement State House Bill 2001 which requires middle housing in existing residential neighborhoods. The inclusion of provisions in the development code that allow for a greater variety of housing types and densities in residential neighborhoods helps to promote greater efficiency in the use of the land; thereby helping to meet the City’s housing needs in the existing urban area before converting urbanizable land to urban use.

The amendments help to ensure that new development makes better use of available land area. The amendments also promote opportunities for new and infill housing development in areas that are currently served with public facilities which requires the least public costs to provide needed facilities and services.

- **Residential Development Goal:** *To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing.*
- **Residential Policy E.9 – Alternative Housing Patterns:** *Subdivision and zoning regulations shall provide opportunities for increased housing densities, alternative housing patterns, and reduced development costs. Development regulations shall promote residential development patterns that encourage:*
 - a. The use of all modes of transportation;*
 - b. Reduction in vehicle miles traveled and length of auto trips; and*
 - c. Efficiency in providing public services.*

As with the SACP policies related to infill development, the proposed amendments are consistent with the above SACP residential development goal because it implements House Bill 2001, which requires cities to allow middle housing in residential zones, and Senate Bill 458, which requires cities to establish a process whereby land which has been, or is proposed to be, developed for middle housing can be further divided into individual lots.

The proposed amendments implementing House Bill 2001 specifically amend the City’s RA, RS, RD, and RM-I zones to allow two family uses, three family uses, four family uses, cottage clusters and townhouses and establish minimum lot size and

development standards for these uses in the zones.

The proposed amendments implementing Senate Bill 458 establish a new middle housing land division application type with a review process, submittal requirements, and approval criteria that are distinct from that of a normal partition or subdivision. The new land division process allows land developed for middle housing to be divided with greater latitude in lot size, street frontage, and setbacks in order to allow for each middle housing dwelling to be located on its own separate lot.

The proposed amendments implementing House Bill 2001 and Senate Bill 458 update the City's zoning and land division regulations to allow for a greater variety of residential housing types, increased housing densities, and alternative housing patterns in residential zones; thereby promoting greater housing opportunities for all income levels consistent with the SACP residential goal and policies.

- ***Transportation Goal:*** *To provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.*
- ***Transportation Policy J.7 – Supportive of Land use Plan Designations and Development Patterns:*** *Local governments shall encourage the expansion of transit services throughout and beyond the Salem Urban Area, especially to areas of increased residential densities, major commercial concentrations, and large institutional and employment centers.*
- ***Transportation Policy J.12 – System Efficiency:*** *The implementation of transportation system and demand management measures, enhanced transit service, and provision for bicycle and pedestrian facilities shall be pursued as a first choice for accommodating travel demand and relieving congestion in a travel corridor, before widening projects are constructed.*

The proposed amendments are consistent with the above SACP transportation goal and policies because they establish a new street standard under SRC 803.035 that recognizes transit facilities as a required component of a street and correspondingly require that transit stops be constructed with proposed developments when a transit stop is identified as being required by the Transit District. Requiring transit stops to be constructed with development helps to improve the City's transit system which in turn supports the transportation goals and policies of the comprehensive plan which call for a balanced, multimodal transportation system of which transit is an important element.

The proposed amendments also update bicycle parking standards and introduce requirements for long-term bicycle parking which further help to support a multimodal transportation network with the City.

- ***Open Space, Parks and Recreation Policy K.6 – Heritage Trees:*** *Heritage and stands of significant trees, as defined by City ordinance, should not be cut or damaged except when deemed necessary for public safety or reasons stipulated by ordinance.*

The proposed code amendment is consistent with this SACP policy because it establishes a variety of increased preservation and protection requirements for trees within the City. Such increased preservation and protection measures include, but are not limited to, expanding the definition of significant tree to include Oregon white oaks of 20 inches dbh or greater and any other tree with a dbh of 30 inches or greater (*with the exception of certain identified non-native invasive species*); increasing the protection standards for the critical root zones of not only significant trees, but also any tree required to be preserved or protected under the UDC; increasing the minimum percentage of trees required to be preserved through tree conservation plans from 25 percent to 30 percent; establishing greater clarity in the code by identifying additional factors which are to be considered in making determinations regarding whether there no reasonable design alternatives that would enable the preservation of a tree or trees; and establishing mitigation measures that are required to be implemented to promote use of alternative energy sources (*solar panels and/or residential EV charging stations*), increased residential dwelling unit density, and/or increased open space and tree replanting when tree conservation plans and tree conservation plan adjustments are unable to preserve a minimum of 30 percent of the overall trees on a property.

Inclusion of these new requirements will result in the improved preservation and protection of stands of significant trees consistent with this SACP policy.

The proposed code amendment was also reviewed for conformance with the applicable Statewide Planning Goals and administrative rules adopted by the Department of Land Conservation and Development. The following goals and administrative rules are applicable to the proposed code amendment:

- **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.*

The proposed amendments conform to this goal because the process to adopt the amendments requires public notice and affords the public an opportunity to review, comment, and take part in the approval process. In addition to the formal adoption process, the City held four public work sessions with the Planning Commission to provide the public an opportunity to review the code amendments prior to the official adoption process.

A series of virtual informational meetings were also held where downtown property owners were invited to attend to learn more about the proposed changes to the Central Business District (CB) zone and the proposed legislative zone change to CB.

- **Goal 2 – Land Use Planning:** *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City has established a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions. The SACP has been adopted by the City

and acknowledged by the Land Conservation and development Commission as being in compliance with the statewide goals, state statutes, and state administrative rules.

The proposed amendments include a number of revisions that update and clarify various land use application and procedural requirements included under the development code. Examples include updates to the City's Annexation chapter to align the review procedures with State law and the land use application and review procedures of SRC Chapter 300; requiring notice to be sent to the Salm Area Mass Transit District for all Type II, Type III, and Type IV land use applications and legislative land use proposals; clarifying the effective date of land use decisions; and clarifying the expiration periods of certain types of land use applications when consolidated with applications for site plan review or land divisions.

These proposed changes further clarify and improve the City's land use planning process. The proposed amendments therefore conform with this goal.

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

Oregon Administrative Rule (OAR) Division 46 (Middle Housing in Medium and Large Cities), and more specifically OAR 660-046-0010, requires medium or large cities that have not adopted land use regulations pursuant to OAR 660-023-0090 for riparian corridors to apply a 100-foot setback to middle housing developed along a riparian corridor.

In order to comply with this requirement, the proposed amendments establish a new 100-foot waterway setback that applies specifically to middle housing as required under State House Bill 2001. The new waterway setback applies in addition to all standards currently in place within the development code to protect riparian corridors pursuant to Goal 5.

The proposed amendments do not include any changes that would reduce required setbacks or other protections currently in place within the development code for Goal 5 resources. The proposed amendments instead expand riparian corridor protections associated with middle housing development as required by HB2001 and OAR 660-046-0010. The proposed amendment conforms to this goal.

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

The proposed amendments conform to this goal because they help the City to meet its housing needs by expanding the variety of housing types allowed within the City's residential zones.

The proposed amendments implementing House Bill 2001 specifically amend the City's RA, RS, RD, and RM-I zones to allow townhouses, two family uses, three family uses, four family uses, and cottage clusters; and establish minimum lot size and development standards for these uses in the affected zones.

The proposed amendments implementing Senate Bill 458 establish a new middle housing land division application type with a review process, submittal requirements,

and approval criteria that are distinct from that of a normal partition or subdivision. The new land division process allows land developed for middle housing to be divided with greater latitude in lot size, street frontage, and setbacks in order to allow for each middle housing dwelling to be located on its own separate lot.

The proposed amendments implementing House Bill 2001 and Senate Bill 458 update the City's zoning and land division regulations to allow for a greater variety of residential housing types, increased housing densities, and alternative housing patterns in residential zones; thereby promoting greater housing opportunities for all income levels consistent with this goal.

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

The proposed code amendments conform to this goal because they establish a new street standard under SRC 803.035 that recognizes transit facilities as a required component of a street and correspondingly require that transit stops be constructed with proposed developments when a transit stop is identified as being required by the Transit District. The proposed amendments also update bicycle parking standards and introduce requirements for long-term bicycle parking.

Requiring transit stops to be constructed with development and the proposed updates to City's bike parking standards help to improve the City's transportation system in a manner consistent with this goal by supporting a multi-modal transportation network and making transit and bicycling more convenient.

- ***Goal 14 – Urbanization:*** *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The proposed amendments conform to this goal because they help the City accommodate its population via housing by allowing a greater variety of housing types in the City's residential zones.

The amendments allowing middle housing in residential zones also help to ensure that new development makes better use of available land area and that opportunities are provided for new and infill housing in areas that are currently served with public facilities, thereby requiring the least public costs to provide needed facilities and services.

- **House Bill 2001 – Sections 3, Chapter 639, Oregon Laws 2019:**

House Bill 2001 requires local governments to consider ways to increase the affordability of middle housing, including waiving or deferring system development charges (SDCs), adopting or amending property tax exemptions, and assessing a construction excise tax. The City Council considered these different incentives at a work session on June 21, 2021. Staff presented the incentives and answered questions from Councilors. The Councilors expressed interest in further investigating the incentives and directed staff to bring back more information about each of them.

Staff is currently analyzing the different incentives and will bring information or recommendations back to the Council as analysis is completed.

2. Legislative Zone Change Approval Criteria

Salem Revised Code (SRC) 265.010(d) sets forth the following criteria that must be met before approval can be granted to Legislative Zone Change. The following subsections are organized with approval criteria shown in ***bold italic***, followed by finding evaluating the proposal's conformance with the criteria.

(1) ***The zone change is in the best interest of the public health, safety, and welfare of the City.***

Finding: The proposed legislative zone change seeks to change the zoning of the identified downtown properties from RH (Multiple Family High-Rise Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District).

The proposed zone change is in the best interest of the public health, safety, and welfare of the City because:

- a. It brings the zoning of the properties into alignment with their envisioned Central Business District comprehensive plan designation;
- b. It establishes a zoning and land use pattern for the properties that is consistent and compatible with that of the surrounding area and more logical than the existing pattern based on their location within the downtown core;
- c. The proposed CB zoning generally allows a greater variety of uses on the properties than currently allowed under existing zoning which thereby helps to fulfill the intent of the Central Business District comprehensive plan designation by strengthening the Central Business District as a principal center for business and commerce comprised of a compact arrangement of retail, commercial, office, financial, cultural, entertainment, governmental, and residential uses; and
- d. The proposed CB zoning will eliminate an existing conflict between the design review requirements applicable to the subject properties, and other properties within the downtown within the General Retail Office overlay zone, and the underlying development standards of the RH, CO, and CR zones. Currently the design review requirements for properties within the General Retail/Office overlay zone establish building setbacks that are different from that of the underlying zones applicable to the subject properties. This results in development projects needing to request adjustments to the setbacks requirements of the underlying zones in order to comply with design review requirements. The proposed zone change to CB will eliminate this conflict and ensure that the properties are subject to the same development and design standards that other properties in the downtown are subject to and that development occurs on the properties in a manner that is consistent with their existing Central Business District comprehensive plan designation.

This approval criterion is met.

(2) ***The zone change complies with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the***

Department of Land Conservation and Development.

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

The proposed legislative zone change was reviewed for conformance with the applicable goals and policies of the SACP. The following SACP goals and policies are applicable to the proposal:

- **Commercial Development Policy G.1 – Central Business District:** *The central business district shall be maintained and developed as a mixed-use regional retail and employment center for the Salem urban area as well as Marion and Polk counties.*
- **Economic Development Goal:** *Strengthen the economic base of the Salem area to sustain the economic growth necessary to provide adequate employment opportunities and maintain community livability.*

The proposed legislative zone change is consistent with the above SACP goal and policy because it results in changing the zoning of the properties from RH (Multiple Family High-Rise Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District) in order align the zoning of the properties with their existing Central Business District comprehensive plan designation.

Due to the location of the properties within the downtown they are currently designated Central Business District, but their current zoning is not consistent with that designation. The proposed legislative zone change to CB brings the comprehensive plan designation and zoning of the properties into alignment and acts to not only further strengthen the central business district as a regional center for the Salem urban area and Marion and Polk Counties but also strengthen the economic base of the Salem area.

The proposed code amendment was also reviewed for conformance with the applicable Statewide Planning Goals and administrative rules adopted by the Department of Land Conservation and Development. The following goals and administrative rules are applicable to the proposed legislative zone change:

- **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.*

The proposed legislative zone change conforms to this goal because the process to adopt the change requires public notice and affords the public an opportunity to review, comment, and take part in the approval process. In addition, a series of virtual informational meetings were also held where downtown property owners were

invited to attend to learn more about the proposed legislative zone change to CB and the changes to the Central Business District (CB) zone.

- **Goal 2 – Land Use Planning:** *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City has established a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions. The SACP has been adopted by the City and acknowledged by the Land Conservation and development Commission as being in compliance with the statewide goals, state statutes, and state administrative rules. The proposed legislative zone change is being reviewed pursuant to the applicable adopted procedures and approval criteria associated with the proposal in keeping with this goal.

- ❖ **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.*

The proposed legislative zone change conforms to this goal because it brings the zoning of the properties into alignment with their current Central Business District comprehensive plan designation.

The intent of the Central Business District comprehensive plan designation is to serve Salem and the region as a principal center of business and commerce. Development within the Central Business District is characterized as consisting of a compact arrangement of retail and commercial enterprises together with office, financial, cultural, entertainment, governmental, and residential use designed and situated to afford convenient access by pedestrians.

The proposed zone change to CB to bring the zoning of the properties into alignment with their Central Business District comprehensive plan designation ensures that the properties will be used and developed in a manner consistent with Central Business District comprehensive plan designation and the CB zone. The variety of uses allowed in the CB zone allow for a variety of economic activities consistent with this goal and the intent of the Central Business District comprehensive plan designation.

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

The proposed legislative zone change conforms to this goal because the proposed CB zoning for the properties will continue to allow housing at density levels consistent with that of the current CO and RH zones. For the properties currently zoned CR, the proposed zone change will make it easier to develop residential uses due to multiple family being allowed as a permitted use in the CB zone as opposed to a conditional use in the CR zone.

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

The properties subject to the proposed legislative zone change are all currently designated Central Business District on the Salem Area Comprehensive Plan Map and zoned RH (Multiple Family High-Rise Residential), CO (Commercial Office), and CR (Retail Commercial). Due to their location within the downtown they are also served by an existing network of fully improved arterial, collector, and local streets which meet the requirements of their street classification under the Salem Transportation System Plan (TSP).

The proposed legislative zone change conforms to this goal because the zone change to CB simply results in the alignment of the properties' zoning with their existing Central Business District comprehensive plan designation.

The proposed zone change to CB will not result in a significant affect to a transportation facility or levels of traffic beyond that which is already planned for under the TSP because the planned traffic volumes assumed under the TSP are based on the properties' existing Central Business District comprehensive plan designation, which is not proposed to be changed, and the properties are served by an existing network of streets that are fully improved consistent with their corresponding street classifications under the TSP.

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

Finding: The proposed legislative zone change seeks to change the zoning of the subject properties from RH (Multiple Family High-Rise Residential), CO (Commercial Office), and CR (Retail Commercial) to CB (Central Business District). Because the corresponding comprehensive plan designation for these properties is currently Central Business District, the proposed zone change will result in the zoning of the properties being changed to align with their existing comprehensive plan designation. Because the zone change does not require a corresponding comprehensive plan change from an industrial designation to a non-industrial designation or a change from a commercial or employment designation to any other designation, this approval criterion is not applicable to the proposal.

- (4) *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 properties subject to the proposed legislative zone change are all currently designated Central Business District on the Salem Area Comprehensive Plan Map and zoned RH (Multiple Family High-Rise Residential), CO (Commercial Office), and CR (Retail Commercial). Due to their location within the downtown they are also served by an existing network of fully improved arterial, collector, and local streets which meet the requirements of their street classification under the Salem Transportation System Plan

(TSP).

The legislative zone change included with this proposal seeks to change the zoning of the properties to CB (Central Business District) to be consistent with and further implement their existing Central Business District Comprehensive Plan designation.

Under OAR 660-012-0060 a zone change is determined to have a significant affect on a transportation facility when it:

- a. Changes the functional classification of an existing or planned transportation facility;
- b. Changes the standards implementing a functional classification system; or
- c. Results in any of the following:
 - ❖ Types or levels of traffic that are inconsistent with the functional classification of an existing or planned transportation facility;
 - ❖ Degrading the performance of an existing or planned transportation facility such that is would not meet the performance standards identified in the TSP or comprehensive plan; or
 - ❖ Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Because the proposed zone change seeks to change the zoning of the properties to align with their current Central Business District comprehensive plan designation, the proposal will not result in a significant effect on a transportation facility because the levels of traffic anticipated and planned for these properties under the TSP is based on their current Central Business District comprehensive plan designation rather than their existing zoning. As a result the proposed legislative zone change from RH, CO, and CR to CB will not result in additional traffic beyond what is currently planned for these properties and the surrounding street system and the zone change will not result in a significant affect on a transportation facility.

As is appropriate for properties within the City’s downtown core, they are served by fully improved arterial, collector, and local streets which meet TSP requirements for their street classification. This approval criterion is met.