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503-588-6173.*

**RECOMMENDATION OF PLANNING COMMISSION  
CODE AMENDMENT CASE NO. CA16-02**

WHEREAS, on May 3, 2016, amendments to the Salem Revised Code (SRC) were initiated by the Salem Planning Commission to consider expanding the boundaries of the Broadway/High Street Retail Overlay Zone (SRC Chapter 613) to include 552-560 and 590 Willow Street NE; and

WHEREAS, after due notice, a public hearing on the proposed code amendments was held before the Planning Commission on June 21, 2016, at which time witnesses were heard and testimony received; and

WHEREAS, the Planning Commission having carefully considered the entire record of this proceeding, including the testimony presented at the hearing, and after due deliberation and being fully advised; NOW THEREFORE

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

Section 1. FINDINGS:

The Planning Commission hereby adopts as its findings of fact the staff report on this matter dated June 21, 2016, herewith attached and by this reference incorporated herein.

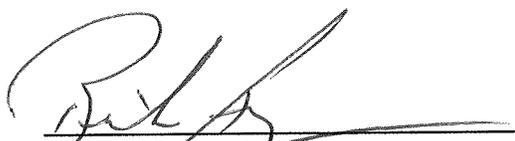
Section 2. ORDER:

Based upon the foregoing findings and conclusions, the Planning Commission RECOMMENDS the City Council take the following action:

That the City Council accept first reading of an ordinance bill for the purpose of amending Salem Revised Code Chapter 613 to expand the boundaries of the Broadway/High Street Retail Overlay Zone to include three parcels totaling approximately 0.3 acres in size and located at 552-560 and 590 Willow Street NE (Marion County Assessor's Map and Tax Lot numbers: 073W22DA06700; 6800; and 6999).

**PLANNING COMMISSION VOTE**

Yes 8          No 0          Absent 1 (Fox)

  
Rich Fry, President  
Salem Planning Commission



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

**NOTICE OF  
RECOMMENDATION**

Code Amendment No. CA16-02

June 21, 2016

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Pursuant to SRC 300.1110(h) the City Council may proceed with adoption of an ordinance, hold a public hearing to receive additional evidence and testimony, refer the proposal back to the Planning Commission for additional deliberation, or abandon the proposal.

The City Council will make a final decision on the proposal. The appeal of the Council decision would be to the Oregon Land Use Board of Appeals. The appeal period is 21 days from the mailing date of the Council decision.

The case file and copies of the staff report are available upon request at Room 305, Civic Center, during City business hours, 8:00 a.m. to 5:00 p.m. Contact Chris Green, Case Manager, at 503-540-2326 or [cgreen@cityofsalem.net](mailto:cgreen@cityofsalem.net) to review the case file.

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

FOR MEETING OF: June 21, 2016  
AGENDA ITEM NO.: 6.3

TO: PLANNING COMMISSION

FROM: *for* LISA ANDERSON-OGILVIE, AICP *Be*  
PLANNING ADMINISTRATOR

SUBJECT: PROPOSED AMENDMENTS TO SALEM REVISED CODE CHAPTER 613  
TO CHANGE THE BOUNDARIES OF THE BROADWAY/HIGH STREET  
RETAIL OVERLAY ZONE TO INCLUDE THREE ADDITIONAL  
PARCELS. (CA16-02)

**ISSUE:**

Should the City amend Salem Revised Code Chapter 613 to change the boundaries of the Broadway/High Street Retail Overlay Zone to include three parcels just outside of the present overlay boundary?

**RECOMMENDATION:**

Adopt the facts and findings of this staff report and recommend that the City Council accept first reading of an ordinance bill for the purpose of amending Salem Revised Code Chapter 613 to expand the boundaries of the Broadway/High Street Retail Overlay Zone to include three parcels totaling approximately 0.3 acres in size and located at 552-560 and 590 Willow Street NE (Marion County Assessor's Map and Tax Lot numbers: 073W22DA06700; 6800; and 6999).

**SUMMARY AND BACKGROUND:**

On April 5, 2016, the Planning Division received an application for a Comprehensive Plan Map and Zone Change for three properties totaling approximately 0.3 acres in size (CPC-ZC16-03). The written statement accompanying the application includes a request to apply the Broadway/High Street Retail Overlay Zone designation to the subject properties for CPC-ZC16-03 (Attachment C). See Attachment B for a map showing the existing and proposed overlay zone boundaries.

On May 7, 2016, the Planning Commission adopted Resolution 16-02, initiating the proposed amendment to the Salem Revised Code. The owner of the subject properties has proceeded with a concurrent Comprehensive Plan and zone change application (Case No. CPC-ZC16-03) that would change the Comprehensive Plan designation of the properties from "Single Family Residential" to "Commercial" and change the zoning from RS (Single Family Residential) with compact development overlay to CR (Retail Commercial).

The applicant's written statement in CPC-ZC16-03, incorporated into the record of this proceeding, explains that the applicant also owns the abutting lot to the east, located at

790 High Street NE.<sup>1</sup> This abutting lot occupies the southeast corner of High and Willow Streets. Consistent with other properties fronting along this portion of the corridor, it is zoned CR with a Broadway/High Street Retail Overlay. The owner does not have development plans at this time but hopes to sell all four parcels together, with uniform zoning and overlay standards applying across the entire holding. In the written statement, the owner contends that the properties are more likely to redevelop under unified Comprehensive Plan Map, zoning, and overlay designations.

The Planning Commission is the decision-making authority for the Comprehensive Plan and zone change requested in CPC-ZC16-03. The Planning Commission will issue a recommendation to City Council on whether to accept first reading of the ordinance bill accompanying the proposed code amendments. Because the purpose for the overlay zone described in SRC Chapter 613 is not compatible with the existing Single Family Residential Comprehensive Plan designation and zoning,<sup>2</sup> the facts and findings below are based upon an assumption of the successful change of the Comprehensive Plan designation to "Commercial" and zoning to CR (Commercial Retail) as proposed in CPC-ZC16-03. Should CPC-ZC16-03 be denied, staff would recommend the code amendments proposed in CA16-02 also be denied as inconsistent with the Single Family Residential designation of the site.

## **FACTS AND FINDINGS:**

### ***Procedural Findings***

1. Under SRC 300.1100, legislative land use proceedings include proposals to amend the City's land use regulations and involve the creation, revision, or implementation of broad public policy generally affecting a large number of individual properties. The final decision in a legislative land use proceeding is an ordinance enacted by the City Council.

Under SRC 300.1110(a)(2), legislative land use proceedings may be initiated by the Planning Commission by adoption of a resolution. On May 7, 2016, the Planning Commission adopted Resolution 16-02, initiating the proposed amendment to the Salem Revised Code.

2. SRC 300.1110(e)(1)(A) requires that the City mail notice of the first evidentiary public hearing in a legislative land use proceeding not more than 40 days, but not less than 20 days prior to the first hearing. This notice was sent on June 1, 2016.

ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. This notice was sent on May 12, 2016.

### ***Proposed Code Amendments***

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<sup>1</sup> Marion County Assessor's Map and Tax Lot Number 073W22DA06600.

<sup>2</sup> Salem Revised Code 613.001 describes the purpose of the Broadway/High Street Retail Overlay zone as promoting a "pedestrian-oriented mixed-use residential and commercial district with emphasis on retail."

1. The purpose of the Broadway/High Street Retail Overlay Zone is to promote a pedestrian-oriented mixed-use residential and commercial district with an emphasis on retail. The overlay accomplishes this purpose through architectural design standards, which all development within the overlay must adhere to, and by allowing only those uses that are consistent with a pedestrian-oriented retail district. The overlay also promotes a mixture of residential and commercial mixes by classifying multiple family residential uses as a permitted use, regardless of use restrictions in the underlying base zone. The concurrent land use application on the subject properties would change their base zone to CR (Commercial Retail). The CR zone only allows multiple family residential uses through the conditional use permit process.

The base zone of all properties currently within the Broadway/High Street Overlay zone is CR. There are no CR-zoned properties in the immediate vicinity of the subject properties that are not also part of the Broadway/High Street Overlay zone.

2. The Broadway/High Street Retail Overlay applies in addition to the requirements of the base zone, and includes the following provisions:

- a) *Additional Permitted Uses*

Multiple family housing and commercial parking within parking structures are classified as permitted uses in the overlay.

- b) *Additional Conditional Uses*

Banks and credit unions are permitted to be developed with a drive-through, with a conditional use permit.

- c) *Additional Prohibited Uses*

Drive-throughs for all uses other than banks or credit unions are prohibited in the overlay.

- d) *Reductions to Required Off-Street Parking*

In the overlay, off-street parking space minimums are automatically reduced by 10 percent. Off-street parking space minimums can be further reduced for sites within 400 feet of a Salem-Keizer Transit District stop, or for sites providing covered bicycle parking or specific pedestrian improvements.<sup>3</sup>

- e) *Design Review Guidelines and Standards*

Development within the overlay is subject to Design Review Guidelines and Design Review Standards established to promote the pedestrian-oriented,

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<sup>3</sup> See SRC 613.020(b).

retail-focused mixed-use objectives of the overlay. This includes requirements related to building location, building orientation and design, open space, site access, and location of off-street parking and loading areas.<sup>4</sup>

### ***Testimony Received***

As of the date of completing this staff report, no written comments or testimony have been provided concerning the proposed amendments.

### ***Findings Addressing Approval Criteria***

1. SRC 110.085 establishes the following approval criteria which must be met in order for a code amendment to be approved:
  - a) The amendment is in the best interest of the public health, safety, and welfare of the City; and

**Finding:** The purpose of the Broadway/High Street Retail Overlay Zone is to promote a pedestrian-oriented mixed-use residential and commercial district with an emphasis on retail. This overlay is one of four different overlay zones north of downtown, which are intended to function together to guide redevelopment of the Broadway/High Street corridor into a mix of high density residential and commercial uses, with appropriate transitions to the existing lower density residential neighborhood to the east.

The proposed code amendment would serve the public interest by facilitating unified redevelopment of an infill site, served by existing utilities and close to the city center that is currently vacant. The properties are within the Riverfront Downtown Urban Renewal Area, designated by the Salem Urban Renewal Agency for targeted revitalization activities, including incentive programs and improved infrastructure to encourage rehabilitation or redevelopment.<sup>5</sup> Because multiple family residential uses are a permitted use in the overlay zone, the code amendment would afford prospective developers a greater mix of uses on the site and unified development standards across the entire 0.3 acre holding. The mix of uses intended in the Broadway/High Street Retail Overlay is more likely to be achieved on a larger site than the current extent of the overlay on the south side of Willow Street, which provides only 90 feet of depth from the Broadway frontage and less than 9,000 square feet in area.

The proposed code amendment also allows a more consistent pattern of development in the southern portion of the Broadway/High Street Retail Overlay. Although a greater variety of uses would be allowed, the entire

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<sup>4</sup> See SRC 613.030.

<sup>5</sup> The *Riverfront Downtown Urban Renewal Plan – Part Two*, Section 400, identifies the following Objective U: “Encourage and participate in the provision of pedestrian-oriented, mixed-use (commercial, office and residential) development along the Broadway/High Street corridor, north of Union Street.”

extent of the property owner's CR-zoned holding would be subject to the same development standards, design requirements, and pedestrian-oriented uses as properties within the overlay to the north and south.

- b) 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 proposed code amendments are consistent with and supportive of the goals, objectives, and policies found in the Salem Area Comprehensive Plan and the applicable Statewide Planning Goals as described below:

*Compliance with Salem Area Comprehensive Plan*

Section IV (F) Mixed-Use Development, Policy 1 – Development

*Encourage efficient use of land by facilitating compact, high-density development and minimizing the amount of land that is needed to accommodate automobile parking. Where appropriate, revised mixed-use design standards to make them simpler and easier to use, including making mixed-use design standards consistent across mixed-use areas.*

**Finding:** The proposed code amendments facilitate redevelopment of a predominantly vacant site in a manner consistent with the mixed-use character of the Broadway/High Street corridor. The development standards contained in SRC Chapter 613 encourage compact development, allow reduced automobile parking, and require pedestrian orientation in site design. The proposed code amendments would result in a more consistent application of these requirements along an identified mixed-use corridor.

Section IV (F) Mixed-Use Development, Policy 3 – Priorities for Mobility and Access

*Facilitate development (land use mix, density, connectivity, design, and orientation) that reduces the need for, and frequency of, SOV trips and supports public transit, where applicable.*

**Finding:** The Broadway/High Street Retail Overlay zone that the applicant proposes to extend implements Mixed-Use Development Policy 3 by allowing a greater mix of commercial and multiple family residential uses than generally allowed in underlying zones, and by establishing development and design requirements which promote a pedestrian, bicycle, and transit-friendly development pattern along the corridor. The properties proposed to be included in the overlay are less than 1,000 feet north of Salem's central business district, allowing convenient pedestrian, bicycle, and transit access to a wide range of employment, services, and cultural amenities in the downtown area. A Salem-Keizer Transit (Cherriots) bus stop is located at the corner of High and Willow Streets at the northwest corner of the holding. In 2015, Cherriots redesigned the regional transit network, resulting in additional routes and higher frequency service on Broadway and High Street. By facilitating redevelopment of a currently vacant site along this corridor, the proposed

code amendments would support the upgraded transit service in the vicinity.

Section IV (F) Mixed-Use Development, Policy 6 – Design

*Develop commercial and mixed-use areas that are safe, comfortable, and attractive to pedestrians.*

And;

Section IV (F) Mixed-Use Development, Policy 7 – Design

*Provide flexibility in the siting and design of new developments, facilities, and redevelopment to respond to changes in the marketplace and infrastructure systems.*

And;

Section IV (F) Mixed-Use Development, Policy 7 – Design

*Provide appropriate transitions between mixed-use areas and adjacent single-use neighborhoods.*

**Finding:** The proposed amendments ensure that additional properties zoned CR as a result of CPC-ZC16-03 are subject to the same design standards and guidelines as other CR-zoned properties in the Broadway/High Street corridor. The design standards and guidelines established in SRC Chapter 613 are meant in part to implement the mixed-use development policies cited above.

*Compliance with Statewide Planning Goals*

**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:** By facilitating redevelopment of an underutilized site close to the city center, the proposed amendments provide local businesses and residents additional economic opportunities through the redevelopment process by increasing the supply of efficiently-located commercial and residential space.

**GOAL 10: HOUSING**

*To provide for the housing needs of the citizens of the state.*

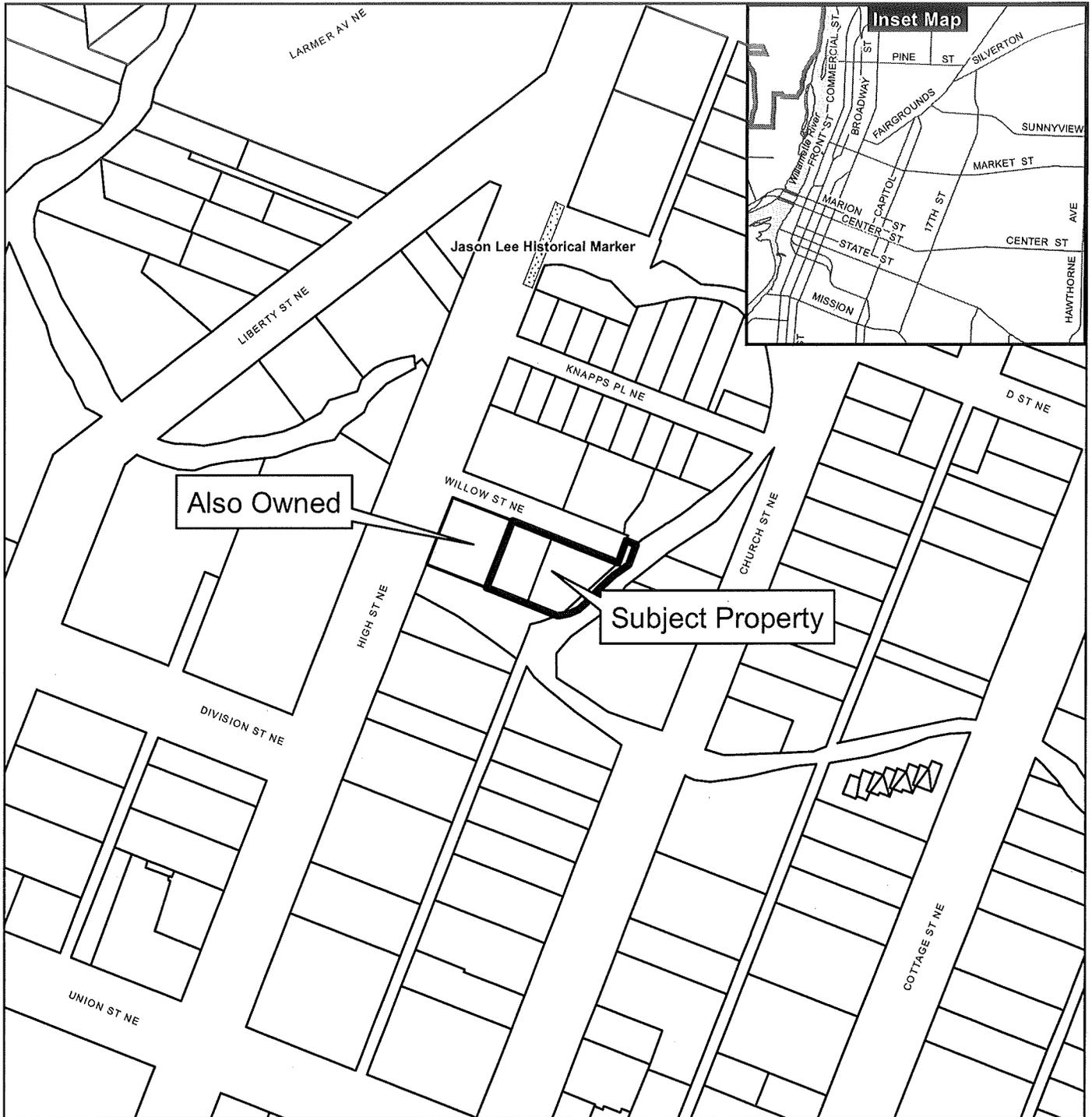
**Finding:** In February 2016 the City Council accepted a Housing Needs Analysis indicating a shortage of available land for multifamily housing for the 2015 to 2035 time period. The proposed code amendments apply an overlay zone that establishes multiple family housing as a permitted use on the properties. By itself, the base zoning of CR (Retail Commercial) proposed by the applicant in CPC-ZC16-03 only allows multiple family housing as a conditional use. Therefore, the proposed code amendments facilitate development of a range of housing types consistent with the current and projected needs of the region.

- Attachments:
- A. Vicinity Map
  - B. Map of Broadway/High Street Retail Overlay Zone and Proposed Amendments
  - C. Applicant Statement in Support of CPC-ZC16-03

Prepared by Christopher Green, AICP, Planner II *CSG*

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# Vicinity Map 552-560 & 590 Willow Street NE



### Legend

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

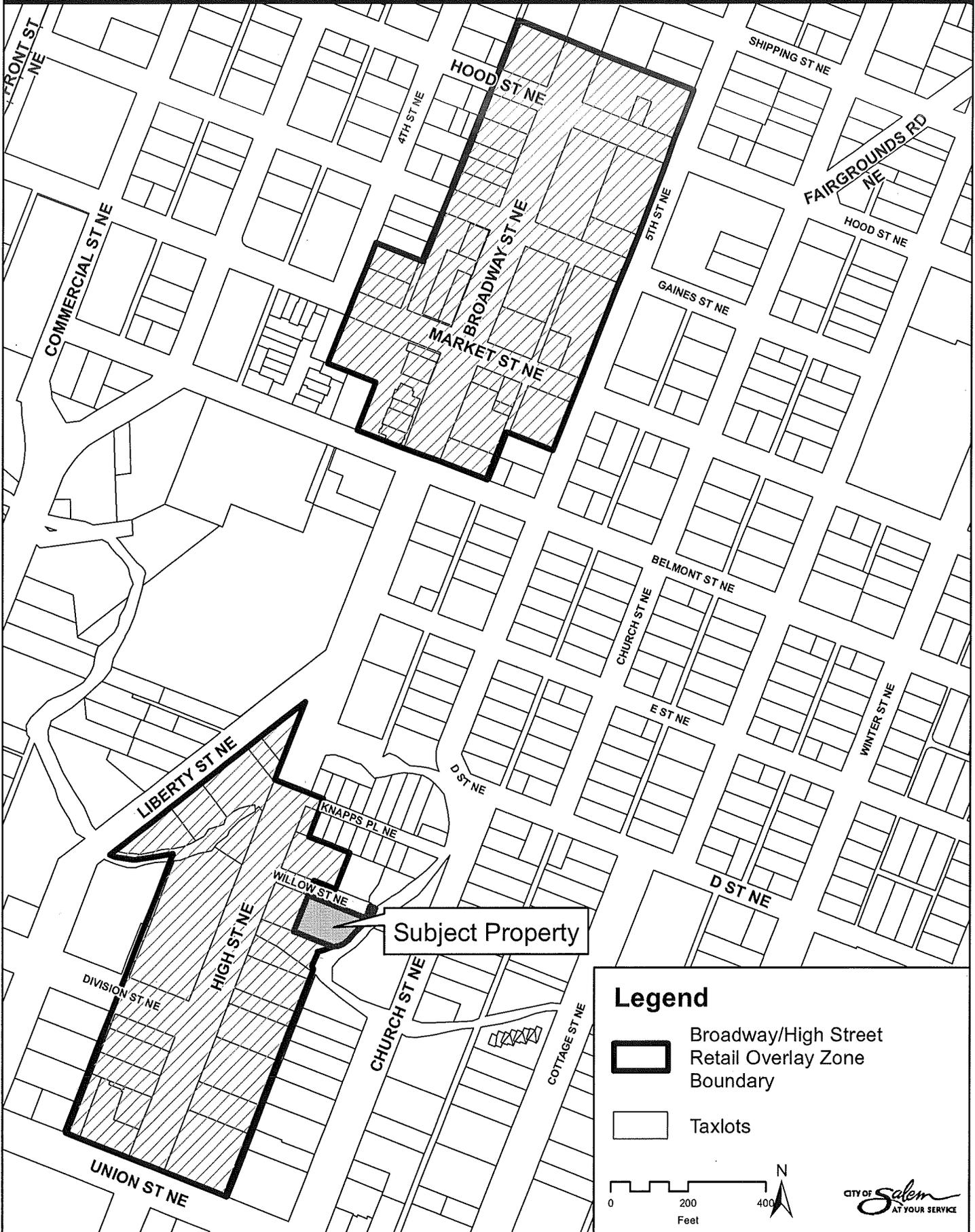


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# Broadway/High Street Retail Overlay Zone



## Proposed Zone Change from RS to CR

Property Owner:  
Marvin E. Reese  
590 Willow Street N.E.  
Salem, Oregon 97301

Property Location: -  
Township 7 South, Range 3 West,  
Section 22DA, Tax Lot(s): 6700, 6800 and 6099

Property Address:  
590 and 552 Willow Street N.E.  
Salem, Oregon 97301

Project Coordinator:  
Frank Walker and Associates  
1480 Jamestown Street SE  
Salem, Oregon 97302  
(503) 588-8001  
frankwalkerandassociates@yahoo.com

April 4, 2016

## **Introduction:**

This is an application by Marvin E. Reese to change the zoning on three tax lots from Residential Single Family (RS) to Commercial Retail (CR). According to the published Comprehensive Plan Map, the subject property is designated Commercial. According to the City of Salem Planning Staff, the designation is Single Family Residence. A recent correction was made to the Comprehensive Plan to restore SFR designation.

The area proposed for the rezone is shown in **Figure 1**, Vicinity Map. The subject rezone area is comprised of three tax lots that together are .41 acres more or less. The exact size of the property may be subject to further evaluation.

The subject rezone area is bordered by Tax Lot 6600 on the west. It is also owned by Marvin Reese but is already zoned CR and is in the Broadway/High Street Overlay Zone. The owner of the property is seeking to expand the Overlay Zone over the entire proposed rezone area because he intends to sell the property. Mr. Reese is retirement age and has no plans to initiate an improvement program for the property.

A Pre-Application Conference was held with various City of Salem Departments represented. A summary of the Pre-Application Conference notes are herein referenced in **Appendix 1**. The general consensus at that meeting is that no specific development plan would be forthcoming from the applicant Mr. Reese. The opportunities and limitations of the site were discussed by representatives from the Community Development Department, Salem Fire Department, Public Works and Building and Safety.

The subject property and the lots comprising that property were lawfully created when the Hurst Addition was recorded in 1893. The name Willow Street was originally Fir Street but was subsequently changed. The main point is that the Tax Lots are also legal lots of recorded in a platter and recorded subdivision.

The subject property does have improvements both above and under the ground surface. A 1936 dwelling is located on Tax Lot 6800 closest to Mill Creek. A garage immediately west of the dwelling is partially located on the same Tax Lot but does encroach slightly onto Tax Lot 6700. The dwelling is habitable and though it is approaching 80 years of age is not of historical significance. No other above ground improvements are located on the property.

The subject property does have underground utilities such as water lines and most significantly a sewer line that bisects the property north to south. Any future improvements on the site will likely require a relocation of the sewer line.

The existing condition of Willow Street will require a right-of-way dedication to bring the street up to modern standards. The Salem Fire Department Representative stated at the Pre-Application Conference that some type of an emergency vehicle turnaround at the eastern terminus of Willow Street ultimately have to be constructed to accommodate fire and rescue apparatus.

Tax Lot 6099 is a long narrow tax lot that follows the meanders of Mill Creek. This tax lot, though part of the proposed rezone area, will not be improved with any structures except for



possible exception of a portion of the emergency vehicle turnaround. Again, Mr. Reese will not be making any improvements to the property. The bank of the creek is largely located within Tax Lot 6099, which in the request inasmuch as the future of this tax lot will linked to the ultimate improvement to the property with respect to lot coverage requirements, setbacks and ultimately the protection of the stream bank from insidious erosion from Mill Creek.

It should also be noted for the record, that the garage west of the dwelling on Tax Lot 6800 encroaches onto Tax Lot 6700. This should not pose a problem since the property will be marketed in one tract. No corrective action will be made to adjust the lot as shown on the Hurst Plat.

A portion of the subject property within Tax Lot 6099 is in the flood plain of Mill Creek. The area occupied by the dwelling has never flooded. According to published map information, the flood plain narrowly missed the corner of the Reese dwelling nearest Mill Creek. **Figure 2** shows the location of the dwelling relative to the highest mapped elevation of the flood plain. The dwelling is eight feet from the high water mark. The owner will defer any detailed flood plain determination to the subsequent property owner(s).

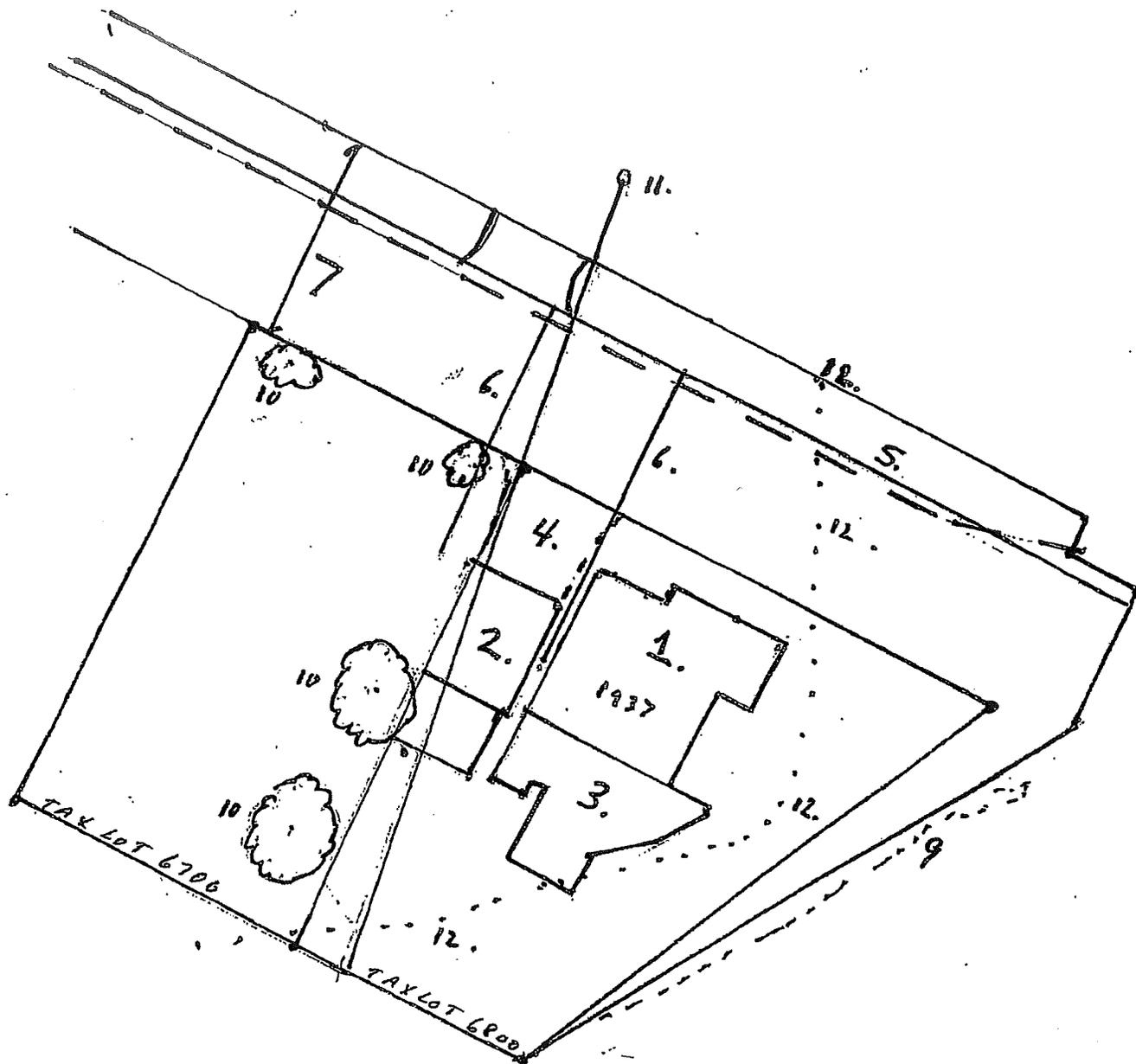
Pursuant to the Application Check List, the "Existing Conditions Plan" is herein referenced as **Figure 3**, Existing Conditions. The improvements only include the structure (dwelling and attached garage) and the driveways. There are no fences, walls or other improvements included on the drawing. However, vegetation and utilities lines are shown.

**Figure 2  
Flood Plain**



Scale: 1"=40'

**Figure 3**  
**Existing Conditions**



**LEGEND**

- 1. Single Family Dwelling (1937)
- 2. Garage
- 3. Shop
- 4. Driveway/590 Willow Street
- 5. 8" water main
- 6. Domestic water lines
- 7. Willow Street Right-of-Way
- 8. Edge of Mill Creek Flood Plain (inexact)
- 9. Bank of Mill Creek
- 10. Trees
- 11. Sewer Manhole
- 12. 100-year flood plain



SCALE: 1 inch = 30 feet

## Approval Criteria:

The approval criteria for a Minor Plan Amendment are provided in Chapter 64.225 (e) (2) of the Salem Revised Code. Each criterion is listed and a response is provided to each individual code requirement. The Application Check List for criteria are those derived from the above referenced chapter.

### SRC 64.025 (d) Criteria

(2) In addition to the submittal requirements for a Type III application under SRC Chapter 300, an application for an applicant-initiated Minor Plan Map Amendment shall include the following:

(A) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(i) The total site area, dimensions, and orientation relative to north;

Response: Tax Lot 6700, 6800 and 6099 are .14, .17 and .10 acres respectively for a total of .41 acres more or less. Tax Lot 6800 appears to contain more than .17 acres by about .02 acres. The rounded off figure of .41 acres is 99% accurate. First American Title Company has provided information on each lot comprising the rezone area and is herein contained as **Appendix 2**, "Assessment Data."

(ii) The location of existing structures and other improvements on the site, including, but not limited to, buildings, accessory structures, fences, walls, parking area, and driveways, noting their distance to property line;

Response: The improvements on the property are the principal dwelling, garage, driveway into garage from Willow Street and a driveway on the west side of Tax Lot 6700. The garage on Tax Lot 6800 encroaches slightly into Tax Lot 6700. (See **Figure 3**, Existing Conditions). A 6 inch sewer line bisects the property north to south on Tax Lot 6800.

(iii) The location of drainage patterns and drainage courses, if applicable;

Response: The subject property is bordered by Mill Creek but no runoff or drainage to the creek was noted during field visits. Some non-point source drainage likely occurs from the steep stream bank but there are no pipes, drainages or ditches that enter Mill Creek.

All of the tax lots are at a slight elevation higher on Willow Street. Consequently, storm drainage is discharged to the west in an engineered storm drain located at the northwest corner of Willow and High Street. The storm drain is a ten inch line and it convey's storm water to the west across High Street as shown in **Figure 3**.

(B) A traffic impact analysis, if required by the Director of Public Works.

Response: A traffic impact analysis is herein enclosed as **Appendix 3**. This analysis was prepared by Keller Associates, located at 707 13<sup>th</sup> Street SE, Suite 280, Salem, Oregon 97301.

(2) Minor Plan Map Amendment. The greater the impact of the proposed Minor Plan Amendment, the greater the burden on an applicant to demonstrate that the criteria are satisfied. A Minor Plan Map Amendment may be made if it complies with the following:

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

(i) **Alteration of Circumstances.** Social, economic, or demographic patterns of nearby vicinity have so altered that the current designations are no longer appropriate.

Response: Since the property was purchased, the immediate uses bordering the property have changed, particularly to the north and south. The properties across Willow Street to the north undergone changes that increase impacts to the subject property. The commercial property to the northwest was formerly a quiet day time dining operation that most recently was a Rockin Rogers. Traffic to the site was principally from 6:30 am to 8:00 pm Monday through Thursday and 7:30 am to 8:00 pm Friday through Sunday.

The following is a list of items that have changed with the establishment of the Half Time Bar and Grill.

- Parking: The bar and grill has 28 off-street parking spaces and additional spaces for loading. The parking lot from happy hour until the mid-point of evening has greater and greater parking demand. This attributes in part to the shared parking arrangement they have with the Karate School next door to the north. At peak demand times, customers start parking in the vacant lot next to the house and garage (of the subject property) as well as on the front lot that is not part of this application. The owner has had to take steps to stop this but short of fencing this off is not always successful.
- Hours of operation: The bar and grill legally operated until 2:00 pm. This in and of itself should not be a problem but there are impacts which affect the viability of continued residential use and zoning. These impacts include the following:
  - o Outdoor Speakers: The bar and grill received positive reviews for having outdoor seating, smoking and drinking. The patrons also state in their reviews that music and sports broadcast outside which allows them to listen to their favorite songs or to listen to sports broadcasts. The combined effect of music, loud talking, motorcycles, vehicle traffic noise and other background noise have elevated the ambient statistical noise levels on the subject property.
  - o Lights: The bar and grill installed a standard stationary light that shines directly into the dwelling at 590 Willow Street NE. The property owner had to rearrange his furniture to offset this impact. The rear part of the parking lot to the east uses and access that is across the street from the dwelling. Head lights swing into the windows when cars leave this portion of the lot. These lights directly impact the tenant who resides in the upstairs portion of the dwelling.
  - o Sleep Altering Noise: The tenant in the Reese residence is most impacted by the noise because his bedroom is upstairs and on the north side of the house. Mr.

Reese retires to the south side of the house where impacts are less noticeable. The worst source of the noise are motorcycles and diesel trucks. They are much louder than average automobiles. The second source of annoying noise comes from peoples voices who congregate in the parking lot for up to an hour and a half after the 2:00 pm closing time. A third source of noises are car doors slamming and cars starting their motors after quiet hours.

- Criminal Activity: The bar and grill is relatively crime free but the Salem Police have had to respond to noise complaints because at times it is intolerable. On one occasion a woman died of an overdose of needle injected drugs. No other serious incidences have been noted but this does mean that drugs have likely been present.

The Kerley Park Cottages are the other use north of the subject property. There are five cottages and one more dwelling to the north. These buildings, though residential in use, do not receive the same types of impacts from the bar and grill because they are enclave defined by a private single access driveway that is east of the privacy fence. This property fence separates the bar and grill site from the residences. There are no discernible impacts from these residences on the subject property because they do not generate any of the same impacts as the bar and grill.

The only use to the south is a large dental office. The establishment of this office has led to an alteration of conditions. The dental office has introduced a low impact commercial use and a general beautification of the area. The parking lot, landscaping, access and lighting are exemplary and add impetus for other medical offices to locate in this area. The building is large, but it sets at the rear (east end) of the lot near Mill Creek. The owners of the subject property have been very pleased with the addition of this use, in contrast to the high impacts resulting from the establishment of the bar and grill.

This dental office has 21 parking spaces and only on one occasion has someone parked on the subject property while visiting the dental office. The quiet nature of the dental facility and the short hours of operation on weekdays minimize impacts to the subject property. The conversion on of this property to commercial office use has proven to be beneficial to the subject property. The lighting on the property is hooded and has no impact on the subject property. Access is exclusively from High Street and has no impact on the subject property.

The use to the east and west of the property are separated from the property by Mill Creek and High Street respectfully.

An alteration of circumstances has occurred over the last 20 years that warrant a close look at modifying the Comprehensive Plan and Zoning. Some of the alterations are in the immediate vicinity and some are beyond adjacent properties. Other Changes in the area include the following:

- North Broadway Urban Renewal Area: The advent of two urban renewal projects on Broadway between Liberty Street and Hood Street have introduced a new mixed use concept that make the subject property attractive for similar use. The incentives to revitalize the near north side became reality between 2006 and 2009.

- The Chemeketa Center for Business and Industry is located at the corner of Union and High Streets. This large office building helps further reinforce the trend that offices and commercial uses are intertwined on this corridor leading from downtown. Chemeketa Community College at one time sought the subject property as a location for a downtown Chemeketa Community Business Center. The size of the subject property and the frontage on High Street potentially attracts both mixed uses and conventional commercial uses.

**(ii) Equally or Better Suited Designation.** A demonstration that the proposed designation is equally or better suited for the subject property than the existing designation.

Response: This property has a unique dynamic with respect to improvement potential. Though this proposal only affects three tax lots (6700, 6800 and 6099), the ownership also has frontage on High Street (Tax Lot 6600 is .21 acres). This portion of the property is already zoned for Commercial Retail and has the Broadway/High Street Overlay superimposed. Tax Lot 6600 already has a history for commercial use (automobile sales). This lot, similar to Tax Lot 6700, is vacant, but unlike Tax Lot 6700 is available for commercial use. The rezoning proposal is an attempt to have one contiguous block of land comprised of all tax lots available for commercial use as is the case with the dental office next door. A CR Zoning designation would not preclude mixed use for commercial and residential. Collectively there is .62 acres in the total ownership that will be marketed with an emphasis for commercial use rather commercial/residential uses.

The subject property is at least equally suited for commercial uses based on the predominate use in the block between Union and Willow Streets. The newest improvements in this block have been for commercial rather than residential uses over the past 15 years. In 1996, the dental office immediately to the south was established and in 2005, the Center for Business and Industry was built.

The improvements on North Broadway have not been exclusively residential but have rather been a mix of commercial and residential. The residential uses are oriented away from the arterial street frontage with commercial uses dominating street level. The option for mixed use will be dependent upon the end user of this site.

**(iii) Conflict Between Comprehensive Plan Map Designation and Zone Designation.**

**(aa)** Whether there was a mistake in the application of land use designation to the property.

Response: This case is not predicated on a mistake in the land use designation to the property but rather on changing circumstances on adjoin properties, within the block between Union and Willow Streets and on the High Street/Broadway corridor between Marion and Hood Streets.

**(bb)** Whether the physical characteristics of the property are better suited to the uses in zone as opposed to the uses permitted by the Comprehensive Plan Map Designation.

Response: The physical characteristics of the property are more a prerequisite for commercial uses than residential uses. Commercial uses as a general rule are located on land that is relatively level compared to areas that can accommodate housing. Residential developments occur in steeply sloping areas such as Croissan Mountain, Fairmont Hill and Cambridge Woods in Salem but major commercial nodes such as Lancaster Mall, Keizer Station, South Commercial and even downtown Salem are on comparatively level land.

The dwelling on the subject property is the only dwelling on the entire block from Union Street to Willow Street. The remainder of the block is also flat land but it is occupied by commercial uses. The inertia in this block is clearly towards commercial rather than residential uses. This is not to reach a hard and fast conclusion that the subject property is not suitable for residential purposes but the historic trend of this block has been the removal of dwellings and residential uses and the establishment of new commercial buildings.

No new single family residences have been established anywhere along the Broadway/High corridor in recent history. In fact, the last dwelling constructed between Knapp Street and Union Street is the dwelling on the subject property. The building permit data and construction along the Broadway/High corridor has been predominately for commercial uses, though there has been mixed use areas that accommodate both uses.

**(cc)** Whether the property has been developed for uses that are incompatible with the Comprehensive Plan Designation.

Response: The RS zone is actually an implementing zone for the Comprehensive Plan Designation. The proponents are relying on other more compelling evidence than incompatibility to justify the plan designation and zone change.

**(dd)** Whether the Comprehensive Plan Map designation is compatible with the surrounding Comprehensive Plan Map Designations.

Response: The subject property is experiencing incompatibility issues as detailed earlier in this report. However, the immediate cause of incompatibility could decline with a change of use in the bar and grill establishment. The current SFR designation is compatible with the cottages on the north side of Willow Street and with the large multi-family east of Mill Creek. The compatibility factor with respect to environmental impact is more than just an adjacent use problem that could be temporary in nature. Traffic on High Street and on other impacts created by nearby businesses on the block also create compatibility issues. Air compressors and tire changing noises from Salem Tire can be heard at the subject property. Traffic signals at Broadway and Liberty and at Union and High Streets create background noise because of high traffic volumes. Breaking and accelerating of truck and car traffic from these nearby intersections results in elevated noise levels from 7:00 am until 6:00 pm daily. The presence of

McMinamins Tavern, Half Time Bar and Grill. The Karate Scholl and nearby convenience stores collectively make this area noisy and therefore less desirable for Residential Single Family.

The residence on the subject property is the only one left on the east side of High Street from Union Street to Willow Street. One single family dwelling is located across Willow Street next to Mill Creek.

The impacts continue to increase through time as businesses grow and expand and as older dwellings are razed to make room for businesses. The Can-Do Neighborhood Association recognized that the subject property would likely be in transition as early as the late 1970's. The Can-Do Neighborhood Plan has the subject property designated for Central Business District in their adopted neighborhood plan recognizing that the long-term viability of this site is for Central Business District uses. The correspondences from Can-Do Neighborhood Association are herein contained as **Appendix 4**.

No prudent investor would evaluate this property for retention in single family use but would consider utilizing a similar strategy that has been successfully implemented on North Broadway.