

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment
for an approximately 2.18-acre site encompassing five tax lots at 560 Glen Creek
Road NW and 585-635 9th Street NW from “Industrial” to “Commercial”**

Procedural Findings

On July 15, 2016, Eric Adams, Mackenzie, on behalf of the applicant Deacon Development Group, represented by Ryan Schera, filed an application for a Comprehensive Plan Change to change the designation from “Industrial” to “Commercial,” a Neighborhood Plan Change to change the designation from “Employment without Residential” to “Commercial,” and a Zone Change to change the zoning from IP (Industrial Park) to CG (General Commercial).

A public hearing was held before the Planning Commission on September 6, 2016 for review of a consolidated Comprehensive Plan Change, Neighborhood Plan Change and Zone Change application. The hearing was continued to October 4, 2016 to allow for additional evidence and testimony to be submitted. On November 2, 2016, the Planning Commission issued a recommendation that City Council accept first reading of an ordinance bill for the purposes of amending the designation of the subject property on the Salem Area Comprehensive Plan Map from “Industrial” to “Commercial” and amending the designation of the subject property on the West Salem Neighborhood Plan Generalized Land Use Map from “Employment without Residential” to “Commercial,” and approved a Zone Change from IP (Industrial Park) to CG (General Commercial) subject to conditions of approval.

At the November 14, 2016 regular City Council meeting, the City Council by majority vote initiated a review of the Planning Commission’s decision pursuant to SRC 300.1050, a public hearing was scheduled before the City Council on December 5, 2016.

On December 5, 2016, the City Council conducted a hearing to receive evidence and testimony regarding the application, the public hearing was closed on December 5, 2016. The City Council conducted deliberations on December 5, 2016 and voted to affirm with modifications the decision of the Planning Commission.

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

Salem Revised Code (SRC) 64.025(e)(2) establishes the approval criteria for Comprehensive Plan Map amendments. In order to approve a quasi-judicial Plan Map amendment request, the decision-making authority shall make findings of fact based on evidence provided by the applicant that demonstrates satisfaction of all of the applicable criteria. The applicable criteria are shown below in **bold** print. Following each criterion is a finding relative to the amendment requested.

Major vs. Minor Comprehensive Plan Map Amendment:

SRC 64.025(a) states that amendments to a Plan Map shall be adopted as provided in this section. The two types of Plan Map amendments are major and minor. As used in

this section, “Plan Map” means the Urban Growth Boundary, the Comprehensive Plan Map, or a general land use map in a Neighborhood Plan.

- (1) A Major Plan Map Amendment is:
 - a. Any amendment to the Urban Growth Boundary; or
 - b. An amendment to either the Comprehensive Plan Map or a general land use map in a Neighborhood Plan, where the amendment involves the creation, revision, or implementation of broad public policy generally affecting more than one property owner or a large number of individual properties.

Finding: The proposal does not amend the Urban Growth Boundary. The proposal involves a comprehensive plan map change affecting a small group of property owners who collectively are the applicant for the proposed change. The proposal does not involve the creation, revision, or implementation of broad public policy generally affecting more than one property owner or a large number of individual properties. The re-designation of 2.12 acres of land from Industrial to Commercial is not a broad public policy as the request affect the subject property and, less significantly, the abutting and adjacent properties. Therefore, this proposal does not constitute a Major Plan Map Amendment.

- (2) A Minor Plan Map Amendment is an amendment to either the Comprehensive Plan Map or a general land use map in a Neighborhood Plan, where the amendment affects only a small number of properties or a closely circumscribed set of factual circumstances.

Finding: The proposal involves a change in the Comprehensive Plan Map designation for five separate abutting properties with four different property owners. The application is made up of a small number of properties and property owners, who collectively are the applicant for this request, which therefore affects only a small number of properties.

Further, the following closely circumscribed set of factual circumstances apply to this application: the subject property is 2.12 acres in size, as compared to the approximately 48 square miles within the City limits; the traffic impacts from the proposed re-designation are limited to abutting and adjacent streets and will not have a significant effect on the transportation system; utilities are available and the property can be served with all required utilities; the proposed development pattern of Commercially designated land at the corner of a Major and Minor Arterial is not a unique development pattern and, in fact, is found throughout the City; and the requested re-designation does not materially affect other Industrial or Commercially designated property throughout the City.

The proposed amendment affects only a small number of properties and a closely circumscribed set of factual circumstances, and is therefore a Minor Plan Map Amendment.

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

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

Finding: The proposal is justified based on (i) and (ii). The applicant identifies an alteration in the social, economic and demographic patterns of the Salem urban area as evidenced by the findings from the 2015 HNA/EOA which found a need for additional commercial land to meet demand over the next 20-years while conversely finding that the City has a surplus of available industrial lands. The proposed change in designation would allow for a commercial development/redevelopment which will help to meet the changing needs of the Salem urban area.

The proposed commercial designation is equally or better suited for the property. The relatively small size of the combined properties, access limitations along Glen Creek Road NW and challenges with topography on the northwest portion of the property, present challenges for industrial development and make the property better suited for commercial development. The applicant's transportation findings identify a similar rate in the number of anticipated vehicle trips that could be generated under the current

industrial designation and the proposed commercial designation. The applicant also notes a similarity in the development standards, including setbacks and site landscaping, between the current industrial designation and the proposed commercial designation. The proposed commercial would allow a greater variety of commercial office and retail uses than the current IP (Industrial Park) zoning allows.

The applicant does not identify a conflict between the comprehensive plan designation and zoning designation for the subject property.

SRC 64.025(e)(2)(B): The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed plan map designation;

Finding: The subject property is located within the Urban Service Area. The water, sewer, and storm infrastructure area available within surrounding streets/areas and appear to be adequate to serve the proposed development. The proposal meets this criterion.

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

Finding: The subject property does not directly abut Wallace Road, but is near the Wallace Road corridor, which is an area characterized by general commercial, retail and office services as well multi-family development. The area to the south of the subject property is characterized by a mix of industrial uses and commercial development. Along Glen Creek Road to the west of the property are residential uses. The proposed commercial designation is consistent with the land use pattern of the surrounding area.

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

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

Salem Urban Area Goals and Policies, Growth Management Goal (Page 24, Salem Comprehensive Policies Plan):

To ensure that future decision concerning the use of land within the Salem urban area are consistent with State Land Use Goals:

Economic Growth B.3

Economic growth which improves and strengthens the economic base of the Salem urban area should be encouraged.

Finding: The Salem EOA identifies a deficit of available commercially zoned land in order to meet current and future community needs. One strategy for addressing this deficit is by targeting conversion of non-commercial lands to commercial uses. The proposal helps to increase the amount of commercial land, which will help to improve and strengthen the economic base of the Salem urban area, thereby meeting this policy.

Economic Growth B.12

Land use regulations which govern the siting of any development shall encourage development to reduce its impact on adjacent properties by screening, landscaping, setback, height, and mass regulations.

Finding: Future development of the site will be required to conform to the development standards of the CG (General Commercial) zone, which shares similar setback requirements as the IP (Industrial Park) zone. The CG zone has an overall minimum landscape requirement of 15 percent to provide screening and reduce the development impact on adjacent properties. The proposed commercial designation is consistent with this policy.

Salem Urban Area Goals and Policies, Urban Growth Goal (Page 26, Salem Comprehensive Policies Plan):

To ensure that the rate, amount, type, location and cost of development will preserve or enhance the City's Quality of life and promote the City's efficient delivery of services.

Development Compatibility C.4

Development of land with existing urban services shall be encouraged before the conversion of urbanizable lands to urban uses.

Finding: The subject property is located within the Urban Service Area. Development of the proposed site does not require the extension or development of new public services. City services, including water, sewer, streets and storm drainage are available to serve the subject property. The proposal is consistent with this policy.

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

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

Infill on Facilities D.9

New development shall be encouraged to locate in areas where facilities are already available and in areas which require the least public costs to provide needed facilities and services.

Finding: The subject property is located within the Urban Service Area. Development of the proposed site does not require the extension or development of new public services. City services, including water, sewer, streets and storm drainage are available to serve the subject property. The proposal is consistent with this policy.

Salem Urban Area Goals and Policies, Commercial Development Goal (Page 34, Salem Comprehensive Policies Plan):

To promote development of commercial office buildings for a range of employment uses, especially in downtown, mixed use districts, and commercially-oriented urban renewal areas.

Community Shopping and Service Facilities G.4

Community shopping and service facilities shall be located adjacent to major arterials and shall provide adequate parking and service areas. Land use regulations shall include provisions for siting and development that discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets and provisions for connectivity to the facilities for pedestrian and bicyclist from residential neighborhoods.

Finding: The subject property is located adjacent to an intersection of major and minor arterial streets, which is well suited for community shopping and services. The proposed change in designation from Industrial to Commercial will allow the property to be developed with needed commercial services. There are no local residential streets that traffic will be filtered through to get access to the subject property. Bicycle and pedestrian access is currently available to the subject property. The proposal is consistent with this policy.

Salem Urban Area Goals and Policies, Transportation Goal (Page 40, Salem Comprehensive Policies Plan):

To provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.

Connectivity and Circulation J.5

The vehicle, transit, bicycle, and pedestrian circulation systems shall be designed to connect major population and employment centers in the Salem Urban Area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

Finding: The subject property is located on Glen Creek Road, classified as a Minor Arterial in the Salem Transportation System Plan, Wallace Road NW which is classified as a Major Arterial and 9th Street NW which is classified as a local street. Sidewalks are developed on Glen Creek Road and Wallace Road, 9th Street has intermittent sidewalks. Salem Keizer Transit (Cherriots) provides bus service adjacent to the property via routes 5 and 6.

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 West Salem Neighborhood Association. The applicant has provided evidence that they attended a meeting with the West Salem Neighborhood Association on March 7, 2016 to discuss a proposed zone change for the subject property. This satisfies Citizen Involvement described in Goal 1.

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

Finding: The City has complied with the Goal requirements for establishing and maintaining a land use planning process. The Oregon Land Conservation and Development Commission have acknowledged the Salem Area Comprehensive Plan to be in compliance with the Statewide Planning Goals.

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

Finding: There are no known scenic, historic, natural, or cultural resources on the affected parcels. Through a future application for site plan review, the application will be reviewed for compliance with the City's tree preservation ordinance, historic preservation ordinance, and applicable wetland standards.

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 subject property is comprised of five separate tax lots with a combined size of approximately 2.18 acres. Three of the lots have existing buildings. One of the key characteristics of high valued industrial land identified in the EOA is for flat parcels

and a large parcel size of at least 10 acres. The subject property has topographic issues with the north end of the property and access challenges to Glen Creek Road NW. Further, given the size of the combined properties, it is not likely that the property is highly valued industrial land that will redevelop into a larger industrial use.

The location along a major transportation corridor makes this property better suited for commercial development. Granting the comprehensive plan change allows the property to provide economic opportunities for needed commercial services for West Salem and the greater urban area into the future.

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

Finding: The City has recently conducted a Housing Needs Analysis (HNA) to determine housing needs for the community for the next 20 years. The HNA concluded that there is currently a deficit of approximately 207 acres of available multi-family zoned land. The current industrial designation for the property does not allow the possibility for housing to be provided on the property. The Planning Commission has placed a condition of approval on the Zone Change application prohibiting multi-family uses on the subject property. Because multi-family residential uses were not permitted under the previous designation, the condition will not have any effect on the amount of property available for multi-family residential development.

Statewide Planning Goal 11 – Public Facilities and Services: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

Finding: The subject property is within the Urban Service area. Findings from the Public Works Department indicate that the water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the proposed development.

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

Finding: Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule (OAR) 660-012-0060. This provision is triggered by amendments to comprehensive plans and land use regulations that “significantly affect” a surrounding transportation facility (road, intersection, etc.). Where there is a “significant effect” on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a “significant effect” is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either

an amendment that “allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility,” or an amendment that would “reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP.”

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

The applicant submitted a Transportation Planning Rule (TPR) Analysis in consideration of the requirements of the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed CPC/ZC will not have a significant effect on the transportation system, as defined by OAR 660-012-0060.

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: Existing urban services are developed and provided adjacent to the subject property. The applicant proposes to change the designation of the property from Industrial to Commercial to allow for a potential redevelopment of the property, utilizing existing resources and efficiently utilizing available land to meet community needs.

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

Finding: The proposed Comprehensive Plan Map amendment from Industrial to Commercial is in the public interest and would be of general benefit because it would allow an opportunity for the property to redevelop in a way that provides needed commercial services to an area which is currently lacking in available commercially designated property. Abutting property to the east is zoned CG (General Commercial), and nearby properties to the west are designated as residential. The proposed change in land use designation is consistent with the location and character of the property.

FINDINGS APPLYING TO THE NEIGHBORHOOD PLAN AMENDMENT

Finding: The property is located within the boundaries of the West Salem Neighborhood Association. The West Salem Neighborhood Plan was adopted in 2004 and is in effect pursuant to SRC Chapter 64.

The Generalized Land Use Map has the property designated as “Employment without Residential” and the recommended changes to the generalized land use map identifies the property as “Center – Employment Only.”

Pursuant to SRC 64.010(c), in the event of an ambiguity or conflict in the provisions or components of the Comprehensive Plan, all other components of the Comprehensive Plan shall take precedence over a Neighborhood Plan.

The “Employment without Residential” designation is not defined in the West Salem Neighborhood Plan. Because of the lack of definition, it is not known what Comprehensive Plan designations or Zoning designations assist in implementing the goals and policies of the West Salem Neighborhood Plan for properties with the “Employment without Residential” designation.

The City Council finds that Industrial and Commercial Comprehensive Plan designations are both intended to promote a variety of employment opportunities, and may both be used to implement the “Employment without Residential” designation in the West Salem Neighborhood Plan.

With no apparent conflict between the current “Employment without Residential” and the proposed “Commercial” Comprehensive Plan designation, the City Council finds no compelling reason to amend the West Salem Neighborhood Plan Generalized Land Use Map designation for the property, and therefore DENIES the Neighborhood Plan Change application.