

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
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*Si necesita ayuda para comprender esta información, por favor llame
503-588-6173.*

DECISION OF THE PLANNING COMMISSION

COMPREHENSIVE PLAN MAP CHANGE / ZONE CHANGE CASE NO. CPC-ZC16-03

APPLICATION NOS.: 16-107145-ZO & 16-107149-ZO

NOTICE OF DECISION DATE: JUNE 22, 2016

APPLICATION SUMMARY: A consolidated application to change the Comprehensive Plan Map designation and zoning of three taxlots between High Street NE and Mill Creek to "Commercial" with CR (Retail Commercial) zoning.

REQUEST: The applicant proposes to change the Comprehensive Plan Map designation of the subject property 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 has requested that the Broadway/High Street Retail Overlay Zone be applied to the subject properties in a separate legislative process that will run concurrently with subject application. The subject property is approximately 0.3 acres in size, zoned RS (Single Family Residential) with Compact Development Overlay, and located at 552-560 and 590 Willow Street NE (Marion County Assessor's map and tax lot numbers: 073W22DA06700; 6800; and 6999).

APPLICANT: MARVIN E REESE

LOCATION: 552-560 & 590 WILLOW ST NE / 97301

CRITERIA: SRC 64.025(e)(2) for Comprehensive Plan Map Change
SRC 265.005(e) for Zone Change

FINDINGS: The findings are in the attached staff report dated June 21, 2016.

DECISION: The Planning Commission **GRANTED** Comprehensive Plan Map Change / Zone Change Case CPC-ZC16-03 as follows:


- A. That the Salem Area Comprehensive Plan (SACP) map designation change request for the subject property from Single Family Residential to Commercial be **GRANTED**.
- B. That the zone change request for the subject property from RS (Single Family Residential) with Compact Development Overlay to CR (Commercial Retail) be **GRANTED**.

VOTE:

Yes 8

No 0

Absent 1 (Fox)


Rich Fry, President
Planning Commission

Application Deemed Complete: May 2, 2016
Public Hearing Date: June 21, 2016
Notice of Decision Mailing Date: June 22, 2016
Decision Effective Date: July 8, 2016
State Mandate Date: August 30, 2016

Case Manager: Chris Green, cgreen@cityofsalem.net

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., Thursday, JULY 7, 2016**. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapters 64 and 265. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

TO: Planning Commission

FROM: *for* Lisa Anderson-Ogilvie, AICP, Planning Administrator *BC*

STAFF: Christopher Green, AICP, Planner II

HEARING DATE: June 21, 2016

APPLICATION: Comprehensive Plan Change / Zone Change 16-03

LOCATION: 552-560 & 590 Willow Street NE

SIZE: Approximately 0.3 acres – see Attachment A

REQUEST: A consolidated application to change the Comprehensive Plan Map designation and zoning of three taxlots between High Street NE and Mill Creek to “Commercial” with CR (Retail Commercial) zoning.

The applicant proposes to change the Comprehensive Plan Map designation of the subject property 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 has requested that the Broadway/High Street Retail Overlay Zone be applied to the subject properties in a separate legislative process that will run concurrently with subject application. The subject property is approximately 0.3 acres in size, zoned RS (Single Family Residential) with Compact Development Overlay, and located at 552-560 & 590 Willow Street NE (Marion County Assessor map and tax lot numbers: 073W22DA06700; 6800; and 6999).

APPLICANT: Marvin Reese

REPRESENTATIVE: Frank Walker & Associates

APPROVAL CRITERIA: Comprehensive Plan Amendment: Salem Revised Code, Ch. 64
Zoning Map Amendment: Salem Revised Code, Ch. 265

RECOMMENDATION: APPROVE Comprehensive Plan Map Change & Zone Change, Case No. 16-03.

APPLICATION PROCESSING

Subject Application

On April 5, 2016, Frank Walker of Frank Walker and Associates, on behalf of property owner Marvin Reese, filed an application for a Comprehensive Plan Change and Zone Change to change the Comprehensive Plan Map designation of the subject property from Single Family Residential to Commercial and to change the zoning from RS (Single Family Residential) with Compact Development Overlay to CR (Retail Commercial). The application was deemed complete for processing on May 2, 2016. The public hearing on the application is scheduled for June 21, 2016.

120-Day Requirement

Amendments to an acknowledged Comprehensive Plan are not subject to the 120-day rule (Oregon Revised Statutes [ORS] 227.128). The request for the Zone Change included in this consolidated application is subject to the 120-day rule. The state-mandated 120-day deadline to issue a final local decision in this case is August 30, 2016.

Public Notice

1. Notice of the proposed Comprehensive Plan Change and Zone Change was distributed to City departments and public and private service providers on May 5, 2016 (Attachment A).
2. Notice of the public hearing was mailed to the owners of all property within 250 feet of the subject property on June 1, 2016 (Attachment A).
3. The property was posted in accordance with the posting provision outlined in SRC 300.620.
4. State law (ORS 197.610) and SRC 300.602(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-day notice when an applicant or the City proposes an amendment to an acknowledged Comprehensive Plan or land use regulation or to adopt a new land use regulation. The City sent notice of this proposal to DLCD on May 11, 2016.

BACKGROUND INFORMATION

The subject property includes three parcels which are all under the same ownership (Marvin E. Reese). There is one single family dwelling (590 Willow Street NE); one parcel that appears to be used as a yard for the dwelling (552 Willow Street NE); the third parcel is long and narrow and consists of Mill Creek frontage. These three parcels total approximately 12,500 square feet (0.3 acres) in size. Each parcel is currently designated Single Family Residential on the Comprehensive Plan Map, zoned RS (Single Family Residential), and located within the Compact Development Overlay zone. The applicant also owns the abutting property to the west, which is situated at the corner of Willow Street and High Street NE. This corner lot is approximately 9,000 square feet in size, designated Commercial on the

Comprehensive Plan Map, zoned CR (Retail Commercial) with Broadway/High Street Retail Overlay, and is currently vacant.

In 1998 the Comprehensive Plan designation and zoning of the subject property was changed by the City Council as part of the implementation efforts of the North Downtown Plan. In 2012, City staff discovered a mapping error that had resulted in a Commercial designation on the Comprehensive Plan Map and RS zoning on the subject properties. Through a city-initiated process, the conflict between the Comprehensive Plan Map designation and zoning were corrected by changing the Comprehensive Plan designation of the subject properties to Single Family Residential (CPC13-04).

Summary of Requested Action

The applicant is requesting an amendment to the Salem Area Comprehensive Plan (SACP) Map to change the Comprehensive Plan Map designation of the property from Single Family Residential to Commercial and the zone district of the property from RS (Single Family Residential) with Compact Development Overlay to CR (Retail Commercial). The proposed Plan Map and Zone Change would allow development of the subject property and the abutting lot at the corner of High and Willow Streets as a single site, under common ownership and unified Comprehensive Plan map and underlying zoning designations. The applicant has requested an amendment to SRC Chapter 613 which would apply the Broadway/High Street Retail Overlay zone to the subject property. The code amendment proposal is under review through a separate but concurrent legislative process. No specific development proposal has been submitted for the site at this time. The applicant's statement summarizing the request and addressing compliance with the required Comprehensive Plan Map amendment and zone change approval criteria is included as Attachment B.

Pursuant to SRC 631.005(a), the underlying zoning of property within the Compact Development Overlay must be RS (Single Family Residential). Therefore, the proposed Comprehensive Plan and zone change would result in the removal of the Compact Development Overlay from the subject property.

Neighborhood Association Comments

The subject property is located within the boundaries of the Central Area Neighborhood Development Organization (CAN-DO). Notification was sent to CAN-DO on May 5, 2016. At the time of writing this staff report, no comments have been received from CAN-DO.

Public Comments

All property owners within 250 feet of the subject property were mailed notification of the proposed partition. At the time of writing this staff report, no comments have been received from adjoining property owners, or citizens at large.

City Department Comments

Salem Public Works Department (Development Services and City Traffic Engineer) - The Public Works Department, Development Services Section, reviewed the proposal and

submitted comments (see Attachment C)

Salem Fire Department – reviewed the proposal and indicated that they have no specific comments on this case.

Salem Building and Safety Division – reviewed the proposal and indicated that they have no specific comments on this case.

Public and Private Service Provider Comments

- Portland General Electric (PGE) reviewed the proposal and indicated that development costs are determined by current tariff and service requirements and that a 10-foot public utility easement (PUE) shall be required on all front street lots.

Salem Area Comprehensive Plan (SACP) Designation

The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Single Family Residential."

The Comprehensive Plan designations of surrounding properties include:

North: (Across Willow Street NE) "Commercial" and "Single Family Residential"

South: "Commercial"

East: (Across Mill Creek) "Central Business District"

West: "Commercial"

Relationship to the Urban Service Area

The subject property is located within the City's Urban Service Area (USA); therefore, an Urban Growth Area Development Permit is not required for development of the property.

Components of the Comprehensive Plan

The Salem Area Comprehensive Plan 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 meets the needs of present and future residents of the Salem urban area. Many different documents and maps, when taken together, comprise the Salem Area Comprehensive Plan.

Salem Transportation System Plan (TSP): The TSP uses a Street Classification System to determine the functional classification of each street within the City's street system. The subject property is abutted by Willow Street NE, designated as a local street. Approximately 250 feet west of Mill Creek, Willow Street intersects with High Street NE, designated as a Minor Arterial.

Central Area Neighborhood Development Organization (CAN-DO) Neighborhood Plan:

The subject property is located within the boundaries of the Central Area Neighborhood Development Organization (CAN-DO) neighborhood association. The CAN-DO Neighborhood Plan was adopted in 1979, and designates the subject property as "Central Business." The plan explains that it developed its policies in light of the fact that the neighborhood is significant to the whole city as the center of commerce. It also states that the North Downtown area is the only logical place for the downtown to expand and that was the reasoning behind the Central Business designation in this area.

The adopted plan does not define the 'Central Business' designation that was given to the subject property but does state the Central Business District should "remain the dominate commercial area for the region" and "continue to be the center for government, shopping, business, cultural, and economic activity for the Salem Urban Area."

In light of the stated housing and Central Business policies the proposed Comprehensive Plan Map designation change does not require a neighborhood plan change.

Zoning

The subject property is zoned RS (Single Family Residential) with Compact Development Overlay. The Compact Development Overlay allows increased density infill development, including multifamily development, up to a maximum per lot and per acre density.

Surrounding properties are zoned as follows:

North: (Across Willow Street NE) CR (Retail Commercial) with Broadway/High Street Retail Overlay and RS (Single Family Residential) with Compact Development Overlay.

South: CR (Retail Commercial) with Broadway/High Street Retail Overlay

East: (Across Mill Creek) RM-2 (Multiple Family Residential)

West: CR (Retail Commercial) with Broadway/High Street Retail Overlay

Existing Site Conditions

The subject property includes three parcels which are all under the same ownership (Marvin E. Reese). There is one single family dwelling (590 Willow Street NE) with one parcel that appears to be used as a yard for the dwelling (552 Willow Street NE) and the third parcel is long and narrow and consists of Mill Creek frontage.

Just to the west of the subject property, the Broadway/High Street corridor extends along a north-south axis. This emerging mixed-use district consists of properties designated Commercial on the Comprehensive Plan Map, fronting on both sides of Broadway/High Street. Zoning in this corridor is primarily CR (Retail Commercial) with Broadway/High Street Retail Overlay and CO (Commercial Office) with Broadway/High Street Housing Overlay. The CR with Broadway/High Street Retail Overlay is contained in two districts, one at the north end of the corridor and one at the south. The subject property is situated just east of the

boundary of the southernmost of the two retail overlay areas.

The width of CR zoning and Broadway/High Street Retail Overlay remains relatively consistent across the southern portion of the overlay. Because of the existing residential designation of the subject property, the Commercial designation tapers inward to include only the corner lot (790 High Street NE) owned by the applicant. The corner lot is only approximately 90 feet deep, and 9,000 square feet in size.

The properties directly across Willow Street NE to the north include both a tavern fronting along High Street and cottage housing at 575-585 Willow Street NE, adjacent to Mill Creek. A similar mix of commercial and compact residential uses continues to the north, with small-lot single family residential development along Knapps Place NE.

Applicant Submittal Information:

Requests for Minor Comprehensive Plan Changes and zone changes must include a statement addressing each applicable approval criterion and standard. The applicant submitted such statements and proof, which are included in their entirety as Attachment B to this staff report. Staff utilized the information from the applicant's statements to evaluate the applicant's proposal and to compose the facts and findings within the staff report.

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

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

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

- (i) ***Alteration in Circumstances.*** Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.
- (ii) ***Equally or Better Suited Designation.*** A demonstration that the proposed designation is equally or better suited for the property than the existing designation.
- (iii) ***Conflict Between Comprehensive Plan Map Designation and Zone Designation.*** A Minor Plan Map Amendment may be granted where there is conflict between the Comprehensive Plan Map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the Comprehensive Plan Map designation. In determining whether the zoning designation is the more

appropriate designation, the following factors shall be considered:

- (aa) Whether there was a mistake in the application of a land use designation to the property;**
- (bb) Whether the physical characteristics of the property are better suited to the uses in the zone as opposed to the uses permitted by the Comprehensive Plan Map designation;**
- (cc) Whether the property has been developed for uses that are incompatible with the Comprehensive Plan Map designation; and**
- (dd) Whether the Comprehensive Plan Map designation is compatible with the surrounding Comprehensive Plan Map designations.**

Finding: The proposal is justified based on (ii); the proposed designation is equally or better suited for the property than the existing designation. The applicant does not assert that a mistake has been made in the application of the Single Family Residential designation to the subject property, and a previous conflict between Comprehensive Plan Map designation and zoning caused by a mapping error was recently resolved through a city-initiated process (CPC13-04). While the subject property has traditionally been developed with single and two-family residential uses, the proximity to the Broadway/High Street corridor provides an opportunity for the subject property to be combined with the abutting lot owned by the applicant to form a redevelopment site with frontage on High Street, access and exposure afforded by a corner lot, and sufficient lot size and depth to accommodate a small commercial development with accompanying parking, landscaping, and other site improvements. The flexibility and mix of uses available for redevelopment of the site would further increase under the applicant's proposal to extend the Broadway/High Street Retail Overlay zone to include the subject property.

In 2015, the City completed an Economic Opportunities Analysis (EOA) for areas within the Salem Urban Growth Boundary for the years 2015 to 2035. The study indicated a shortage of approximately 100 gross acres of retail commercial land within the Salem UGB. The accompanying Housing Needs Analysis (HNA) indicated a large surplus of available land for single family detached housing, and a shortage of land designated for multifamily housing. Although Multiple Family Housing is a permitted use within the Compact Development Overlay, the overlay's maximum density of 14 units per acre, per-lot maximum of 3 units, and small size of the subject property limit the development capacity of the site for multifamily units. Based on these limitations, only 3 new multifamily dwelling units could be constructed on the currently vacant lot (552-560 Willow Street NE). Even if the existing single family residence was removed and the existing lots were consolidated, the 0.3 acre subject property could only be developed for a total of 5 new multifamily units (4 units net). The CR (Commercial Retail) zoning proposed by the applicant as part of the consolidated application allows multifamily housing as a conditional use, with no maximum density.

Shared boundaries with Commercially-designated properties to the north, south, and west, and proximity to the Broadway/High Street corridor support the suitability of the subject property for Commercial designation. Utilities and services are available to support

commercial development on the subject property, and the site has both frontage along a minor arterial (High Street NE) and convenient secondary point of access available along a local side street (Willow Street NE). Therefore, staff finds that the Commercial designation and CR zoning proposed by the applicant is equally suited to the subject property as the existing designation.

The proposal meets this criterion.

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

Finding: Water and sewer service is provided in Willow Street NE and is stubbed to both 590 Willow Street NE for the existing house and to 552 Willow Street NE which previously had a dwelling. There is no service stubbed to the parcel adjacent to Mill Creek as it is undevelopable due to its size, lot dimensions, and location on the creek bank. This criterion has been met. Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 220.

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

Finding: The width of CR zoning and Broadway/High Street Retail Overlay remains relatively consistent across the southern portion of the overlay, with the area adjacent to the subject property being one of a few exceptions. The Commercial designation, CR zoning, and overlay zone extend a uniform 168 feet from either side of High Street for the southernmost 700 feet of the overlay, to Union Street NE. Because of the existing residential designation of the subject property, the Commercial designation tapers inward to include only the corner lot (790 High Street NE) owned by the applicant. The corner lot is only approximately 90 feet deep, and 9,000 square feet in size. The commercially-zoned property across Willow Street NE to the north retains the 168-foot depth typical for the corridor. The existing extent of the commercially-designated portion of the applicant's holding is an unusually narrow portion of the otherwise uniform corridor along this portion of High Street. The applicant's proposal would expand the depth of the overlay to 255 feet from the frontage on High Street, allowing future development on the site to more closely match the pattern established by lot depth along the corridor to the north and south.

Staff finds that the proposal meets this criterion.

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

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

Salem Urban Area Goals and Policies, Growth Management Goal (Page 28, Salem Comprehensive Policies Plan):

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

Finding: The public facilities and service needs for the subject property would be provided at the time of development of the site. The subject property is within the Urban Service Area and all public services and utilities are available in the vicinity of the subject property including water, sewer, storm drainage, streets, sidewalks, fire and police protection, electricity, telecommunications, and solid waste disposal. The proposed Comprehensive Plan Map amendment with concurrent Zone Change is consistent with these policies.

Salem Urban Area Goals and Policies, Commercial Development Goal (Page 35, Salem Comprehensive Policies Plan):

Policy G.3. Redevelopment of existing shopping and service facilities should be encouraged where appropriate to provide neighborhood services or as part of mixed-use development with multifamily housing. The City may use financial and other tools to encourage redevelopment of existing shopping and service facilities, especially within Urban Renewal Areas.

Finding: Although there is no existing shopping or service facilities on the subject property, the underlying purpose of the Comprehensive Plan and zone change is to facilitate redevelopment of an underdeveloped site along a commercial corridor. The corner property at 790 High Street NE, also owned by the applicant, occupies a corner lot within the Broadway/High Street corridor and has remained vacant. Extension of the CR (Retail Commercial) zoning from the corner property to the subject property facilitates the assembly and redevelopment of all four parcels within the holding for future commercial redevelopment. The subject property is within the Riverfront-Downtown Urban Renewal Area and abuts a mixed-use overlay zone to the north, south, and west. The subject properties are well-situated to provide neighborhood shopping and services to existing and future multifamily development along the Broadway/High Street corridor.

Policy G.5. Unless the existing development pattern along arterials and collectors commits an area to strip development, new commercial development shall be clustered and located to provide convenience goods and services for neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods.

Finding: Community and Neighborhood Shopping and Service Facilities consist of “community-scale facilities” which provide “shopping goods for a market area consisting of several neighborhoods,” and smaller “neighborhood-scale facilities” providing “convenience goods for neighborhood residents.”¹ The proposed Commercial designation of the site would

¹ Salem Area Comprehensive Policies Plan, Section II.A.3.c, pages 8-9.

allow the applicant to assemble a commercial site of approximately one-half acre, subject to uniform Comprehensive Plan designation and zoning. This would facilitate redevelopment of the subject property and in turn further clustering of retail development along the Broadway/High Street corridor.

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.*

Staff Response: A public hearing notice was mailed to the affected property owners, all property owners within 250 feet of the subject property and to the Central Area Neighborhood Organization (CAN-DO). 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.*

Staff Response: 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.*

Staff Response: There are no known scenic, historic, natural, or cultural resources on the affected parcels. The application will be reviewed for compliance with the City's tree preservation ordinance, historic preservation ordinance, and any applicable wetland standards at the time of development. Staff finds that the proposal is consistent with Goal 5.

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.*

Staff Response: The subject property is part of a contiguous ownership that includes a corner lot already designated "Commercial," zoned CR, and within the Broadway/High Street Retail Overlay. Despite its prominent location on a designated minor arterial, the corner lot's economic development potential is currently limited because it is less than one-quarter acre in size, making it difficult to accommodate the typical development program of a new commercial building within a mixed-use corridor, including parking, landscaping, and other site improvements. Because the remainder of the holding (the three parcels subject to this case) is zoned Single Family Residential, and subject to a significantly different set of allowed uses and development standards, the overall half-acre holding is prevented from being redeveloped under a single unified program. Therefore, it would be unlikely that the property could reach its full economic development potential in terms of community and neighborhood

shopping and service facilities, as currently envisioned by the "Commercial" SACP designation on adjacent properties along the Broadway/High Street corridor.

The proposed change of designation to "Commercial" will increase the number of permitted uses at the site and better takes into account the location of the subject property, thereby opening up additional opportunities for economic development, consistent with the intent of the goal. The proposal meets the requirements of Goal 9.

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

Staff Response: The proposal will remove approximately 0.3 acres from the existing inventory of land that is designated for single family housing. The subject property is also within the Compact Development Overlay, which allows multiple family housing as a permitted use. However, as described in findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(A), only 5 multifamily units are permitted on the 0.3 acre site under maximum densities in the Compact Development Overlay.

The existing surplus of land designated for single family detached housing, as identified in the Housing Needs Analysis includes more than enough remaining acreage to accommodate demand for single family residential development after deducting the roughly 0.3 acres that would be removed from the Single Family Residential designation under the applicant's proposal, and assuming the eventual removal of the existing single family dwelling on the property. The HNA also indicates a shortage of available land for multifamily housing for the 2015 to 2035 time period. Although multiple family housing is permitted in the existing RS zone by the Compact Development Overlay, the maximum density of 14 dwelling units per acre would yield an increase of only 4 new net units if the site were totally redeveloped. Multifamily development is listed as a conditional (rather than permitted) use in the CR (Retail Commercial) zone requested by the applicant. The CR zone does not cap multi-family density.

Based on the current available supply of land for residential development shown in the Housing Needs Analysis, the proposal would not have an impact on the ability of the City to provide for its projected housing needs, even if no new housing units were added in future redevelopment of the site. Therefore, the proposal to change the designation of the subject property to Commercial would not have an impact on the ability of the City to provide for its projected housing needs. The proposal meets the requirements of Goal 10.

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.*

Staff Response: The City maintains an infrastructure of public facilities and services as the framework for urban development. These services are made available in a timely and orderly fashion resulting in efficient urban development. The subject property is located in close proximity to the city center and already served by public facilities. Staff finds that the proposal meets the requirements of Goal 11.

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

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). At the request of the Assistant City Traffic Engineer, the applicant submitted an addendum to include future-year analysis based on a future-year horizon of the year 2030. The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system, as defined by OAR 660-012-060. The Assistant City Traffic Engineer has reviewed the TPR analysis and addendum and concurs with the conclusion regarding effect of the proposal on the transportation system. The proposal complies with Goal 12.

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.*

Staff Response: The subject property is part of the original plat of the City of Salem established in 1849 and is located within the Urban Growth Boundary (UGB). The proposal does not include extension of services to properties outside of the UGB. The proposed Comprehensive Plan and Zone Change are consistent with long-established urban uses on the periphery of the central business district. The proposal complies with Goal 14.

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

Finding: The proposed Comprehensive Plan Map amendment from Single Family

Residential to Commercial is in the public interest and would be of general benefit because it would facilitate redevelopment of a key corner site within a centrally-located mixed-use corridor. The Plan Map amendment would help address a deficit of approximately 100 acres of retail commercial services identified in the Economic Opportunities Analysis.

The proposed change in land use designation is consistent with the location and character of the property, with Comprehensive Plan policies and market requirements for neighborhood-scale commercial development, and with the mix of commercial and residential uses established on surrounding properties. The proposal satisfies this criterion.

FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA FOR THE ZONING MAP AMENDMENT

The following analysis addresses the proposed zone change for the subject property from RS (Single Family Residential) with Compact Development Overlay to CR (Retail Commercial).

SRC Chapter 265.005 provides the criteria for approval for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial Zone Map amendment request, the review authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria and factors are satisfied. The extent of the consideration given to the various factors set forth below will depend on the degree of impact of the proposed change, and the greater the impact of a proposal on the area, the greater is the burden on the applicant to demonstrate that, in weighing all the factors, the zone change is appropriate.

The applicable criteria and factors are stated below in **bold** print. Following each criterion is a response and/or finding relative to the amendment requested.

SRC 265.005(e)(1)(A). The zone change is justified based on one or more of the following:

- (i) **A mistake in the application of a land use designation to the property**
- (ii) **A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern.**
- (iii) **A demonstration that the proposed zone change is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.**

Finding: The request satisfies (iii); the proposed zone change is equally or better suited for the property than the existing zone.

While possible under the existing zoning, redevelopment of the subject property for single or multiple family residential purposes may be constrained by the relatively small site area of residential land within an established corridor of predominantly commercial properties. The

subject property is rectangular, with minimal grade changes and a vast majority of developable land outside of the identified floodplain. Although fronting on a side street with a local street designation, the subject property is part of a larger contiguous holding with frontage on a minor arterial street less than 100 feet to the west. A Salem-Keizer Transit (Cherriots) bus stop is located at the corner of High and Willow Streets at the northwest corner of the holding. Mill Creek to the east and Willow Street to the north provide buffering from the closest residential uses, which generally consist of medium-density detached cottage units. Staff finds that the physical characteristics of the property are appropriate for the proposed zone.

In evaluating the proposed zone change, the suitability of the specific zone (Commercial Retail) proposed by the applicant must be considered. For this reason, an additional measure of the suitability of this request is consideration of the nature of the potential future uses allowed by the CR zone when compared to the uses allowed under the existing RS zone, and the character of the existing land uses in the neighborhood. Existing development on abutting CR-zoned properties is consistent with the uses allowed in that zone. SRC 522.001 states that the CR (Retail Commercial) zone proposed by the applicant "generally allows a wide array of retail sales and office uses."

All CR-zoned properties within the vicinity of the subject property are also within the Broadway/High Street Retail Overlay zone, the purpose of which is described in SRC 613.001 as promoting "a pedestrian-oriented mixed-use residential and commercial district with an emphasis on retail." In addition to the overlay zone, the development pattern of surrounding properties is guided by 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. As development and redevelopment takes place on surrounding properties, allowed uses under the proposed CR zone will form a logical part of the overall development pattern in the corridor.

The proposal meets this criterion.

(B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

Finding: The proposal is not a City-initiated zone change. Therefore, this criterion does not apply.

(C) The zone change conforms with the applicable provisions of the Salem Area Comprehensive Plan.

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this report, address the applicable provisions of the Salem Area Comprehensive Plan for this consolidated comprehensive plan change and zone change request. The proposal satisfies this criterion.

(D) The zone change complies with applicable Statewide Planning Goals and

applicable administrative rules adopted by the Department of Land Conservation and Development.

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this report, address applicable Statewide Planning Goals and Oregon Administrative Rules for this consolidated comprehensive plan change and zone change request. The proposal satisfies this criterion.

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

Finding: The proposed zone change is from RS (Single Family Residential) with Compact Development Overlay to CR (Retail Commercial). No industrial Comprehensive Plan designations or zoning districts are involved in the proposal. The existing designation is not a commercial or employment designation. Therefore, this criterion does not apply.

- (F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.**

Finding: The applicant submitted a Transportation Planning Rule (TPR) Analysis in consideration of the requirements of the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis is required to demonstrate that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system as defined by OAR 660-012-0060. The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system. The Assistant City Traffic Engineer has reviewed the TPR analysis and concurs with the findings presented.

The proposal meets this criterion.

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

Finding: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(B), included earlier in this report, address the public facilities and services available to support commercial uses allowed on the subject property. The proposal satisfies this criterion.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the facts and findings of the staff report and **APPROVE** the following actions for Comprehensive Plan Change / Zone Change 16-03, on property approximately 0.3 acres in size, designated Single Family Residential on the Plan Map, zoned RS (Single Family Residential) with Compact Development Overlay, and located at 552-560 and 590 Willow Street NE (Marion County Assessor map and tax lot numbers: 073W22DA06700; 6800; and 6999).

- A. That the Salem Area Comprehensive Plan (SACP) map designation change request for the subject property from Single Family Residential to Commercial be GRANTED.
- B. That the zone change request for the subject property from RS (Single Family Residential) with Compact Development Overlay to CR (Commercial Retail) be GRANTED.

Attachments: A. Public Hearing Notice & Vicinity Map
B. Applicant's Statement Addressing Approval Criteria
C. Public Works Department Comments

Prepared by Christopher Green, AICP, Planner II 



HEARING NOTICE

LAND USE REQUEST AFFECTING THIS AREA

Audiencia Pública

Si necesita ayuda para comprender esta información, por favor llame 503-588-6173.

CASE NUMBER:	Comprehensive Plan Map Change/Zone Change Case No.CPC-ZC16-03
AMANDA APPLICATION NO:	16-107145-ZO & 16-107149-ZO
HEARING INFORMATION:	PLANNING COMMISSION, TUESDAY, JUNE 21, 2016, 5:30 P.M. Council Chambers, Room 240, Civic Center
PROPERTY LOCATION:	552-560 & 590 WILLOW ST NE, SALEM OR 97301
OWNER / APPLICANT:	MARVIN E REESE
AGENT:	FRANK WALKER, FRANK WALKER & ASSOCIATES
DESCRIPTION OF REQUEST:	<p>Application Summary: A consolidated application to change the Comprehensive Plan Map designation and zoning of three taxlots between High Street NE and Mill Creek to "Commercial" with CR (Retail Commercial) zoning.</p> <p>Request: The applicant proposes to change the Comprehensive Plan Map designation of the subject property 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 has requested that the Broadway/High Street Retail Overlay Zone be applied to the subject properties in a separate legislative process that will run concurrently with subject application. The subject property is approximately 0.3 acres in size, zoned RS (Single Family Residential) with Compact Development Overlay, and located at 552-560 & 590 Willow Street NE (Marion County Assessor's map and tax lot numbers: 073W22DA06700; 6800; and 6999).</p>
CRITERIA TO BE CONSIDERED:	<p><u>COMPREHENSIVE PLAN</u></p> <p>Pursuant to SRC 64.025(e)(2), the greater the impact of the proposed Minor Plan Map 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:</p> <p>(A) The Minor Plan Map Amendment is justified based on the existence of one of the following:</p> <ul style="list-style-type: none"> (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 a 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 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.
- (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;
 - (C) The proposed plan map designation provides for the logical urbanization of land;
 - (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
 - (E) The amendment is in the public interest and would be of general benefit.

ZONE CHANGE (Quasi-Judicial)

Pursuant to SRC 265.005(e), a QUASI-JUDICIAL ZONE CHANGE shall be granted if the following criteria are met:

1. A quasi-judicial zone change shall be granted if all of the following criteria are met:
 - A. The zone change is justified based on the existence of one or more of the following:
 - (i) A mistake in the application of a land use designation to the property;
 - (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or
 - (iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.
 - B. If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.
 - C. The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.
 - D. The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.
 - E. 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.

F. The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

G. 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 zone.

2. The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.

HOW TO PROVIDE TESTIMONY:

Any person wishing to speak either for or against the proposed request may do so in person or by representative at the Public Hearing. Written comments may also be submitted at the Public Hearing. Include case number with the written comments. Prior to the Public Hearing, written comments may be filed with the Salem Planning Division, Community Development Department, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision.

HEARING PROCEDURE:


The hearing will be conducted with the staff presentation first, followed by the applicant's case, neighborhood organization comments, testimony of persons in favor or opposition, and rebuttal by the applicant, if necessary. The applicant has the burden of proof to show that the approval criteria can be satisfied by the facts.

Opponents may rebut the applicant's testimony by showing alternative facts or by showing that the evidence submitted does not satisfy the approval criteria. Any participant may request an opportunity to present additional evidence or testimony regarding the application. A ruling will then be made to either continue the Public Hearing to another date or leave the record open to receive additional written testimony.

Failure to raise an issue in person or by letter prior to the close of the Public Hearing with sufficient specificity to provide the opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

Following the close of the Public Hearing a decision will be issued and mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision.

CASE MANAGER:

Chris Green, Case Manager, City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Telephone: 503-540-2326; E-mail: cgreen@cityofsalem.net. 

NEIGHBORHOOD ORGANIZATION:

Central Area Neighborhood Development Organization (CAN-DO), Woody Dukes, Land Use Chair; Phone: 503-364-4230; Email: woodrowd668@gmail.com

DOCUMENTATION AND STAFF REPORT:

Copies of the application, all documents and evidence submitted by the applicant are available for inspection at no cost at the Planning Division office, City Hall, 555 Liberty Street SE, Room 305, during regular business hours. Copies can be obtained at a reasonable cost. The Staff Report will be available seven (7) days prior to the hearing, and will thereafter be posted on the Community Development website:

www.cityofsalem.net/Departments/CommunityDevelopment/Planning/PlanningCommission/Pages/default.aspx

ACCESS:

The Americans with Disabilities Act (ADA) accommodations will be provided on request.


NOTICE MAILING DATE:

June 1, 2016

PLEASE PROMPTLY FORWARD A COPY OF THIS NOTICE TO ANY OTHER OWNER, TENANT OR LESSEE.

For more information about Planning in Salem:

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

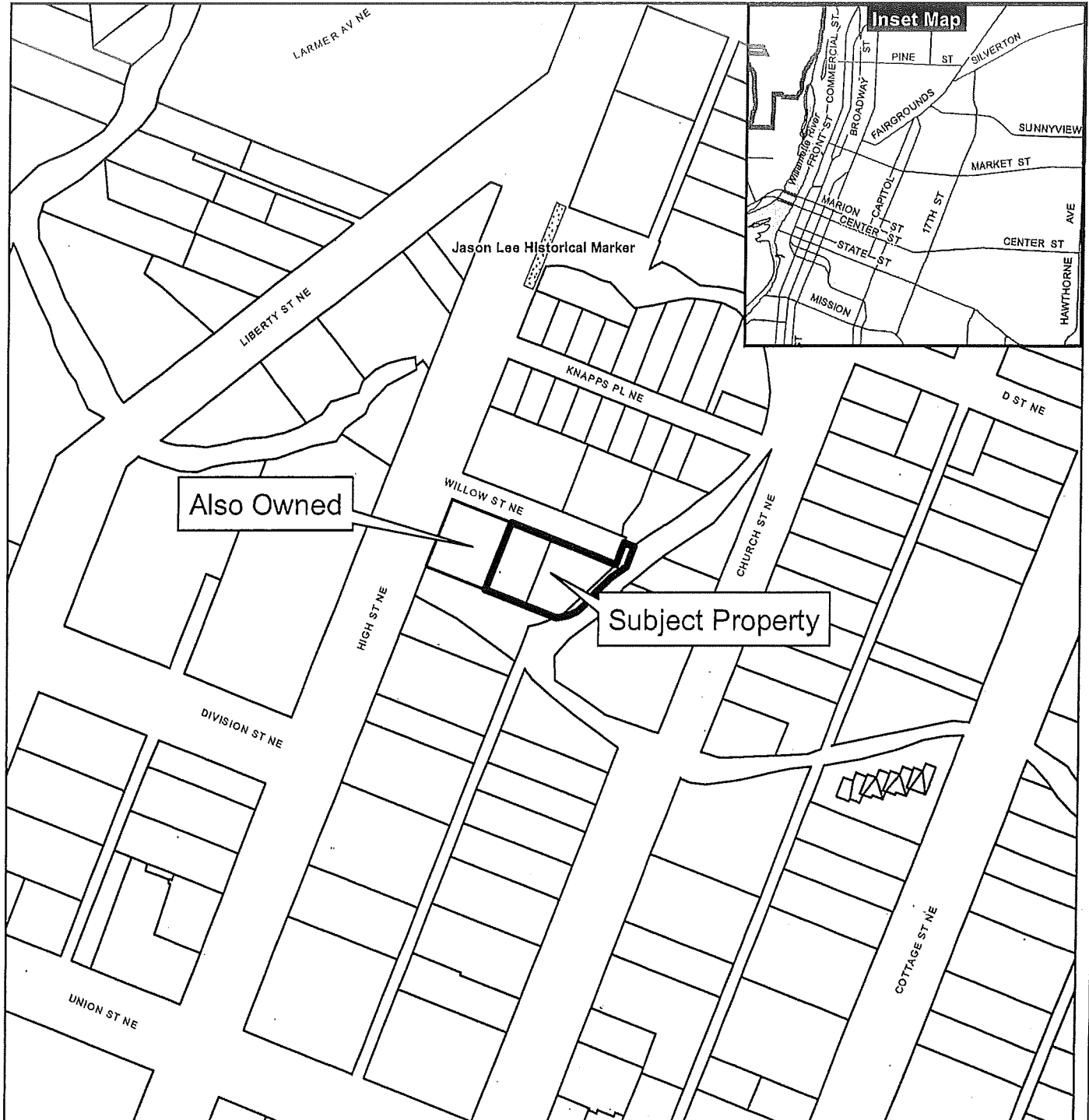
 @Salem Planning

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, as provided by Salem Revised Code Chapter 97. The City of Salem also fully complies with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and related statutes and regulations, in all programs and activities. Disability-related modification or accommodation, including auxiliary aids or services, in order to participate in this meeting or event, are available upon request. Sign language and interpreters for languages other than English are also available upon request. To request such an accommodation or interpretation, contact the Community Development Department at 503-588-6173 at least two business days before this meeting or event.

TTD/TTY telephone 503-588-6439 is also available 24/7

Vicinity Map

552-560 & 590 Willow Street NE



Legend

Taxlots

Urban Growth Boundary

City Limits

Outside Salem City Limits

Historic District

Schools

Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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Comprehensive Plan Map - CPC-ZC16-03



Legend

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

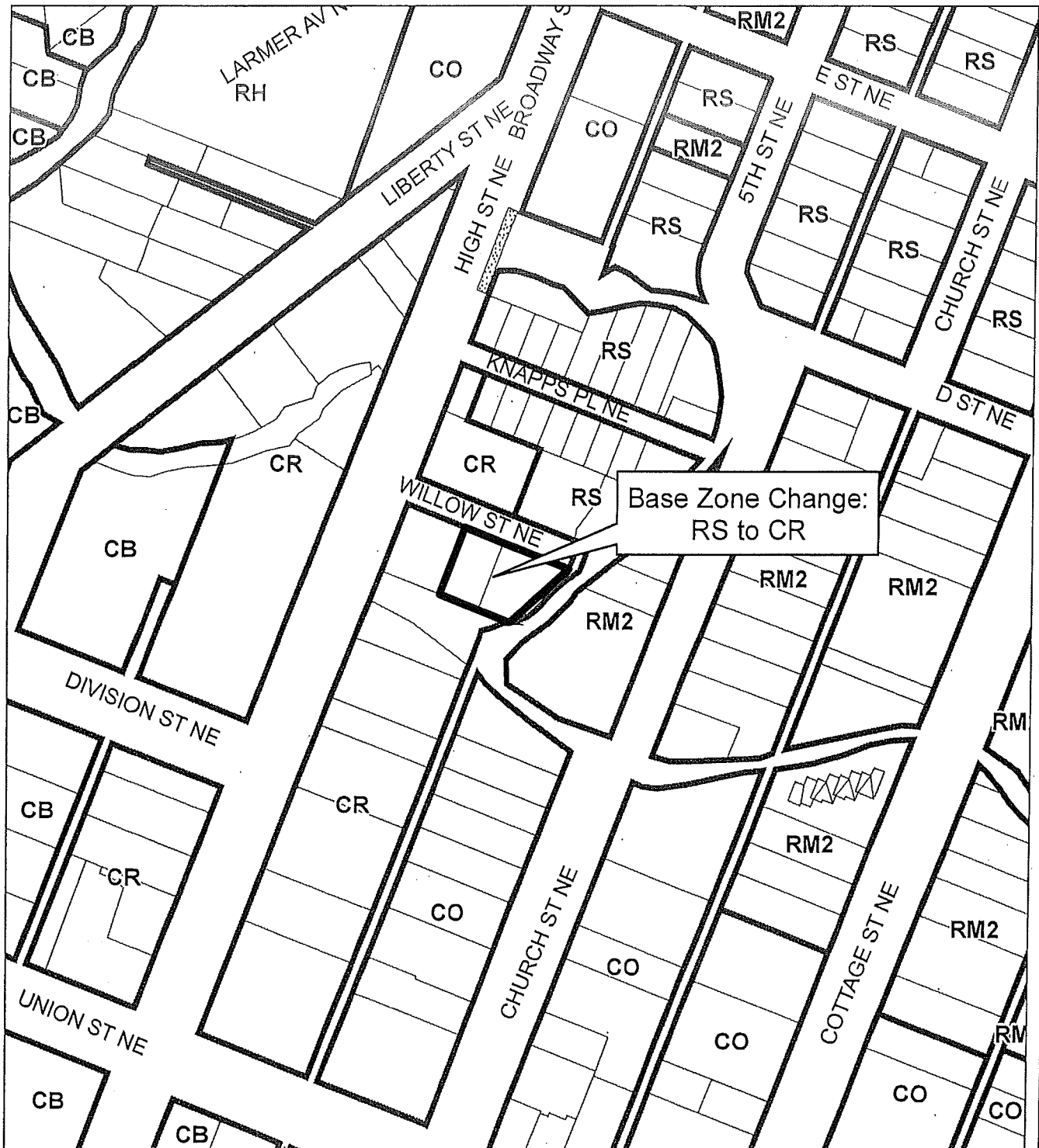
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CITY OF *Salem*
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Community Development Dept.

Vicinity Zoning - CPC-ZC16-03



Legend

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

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CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

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.

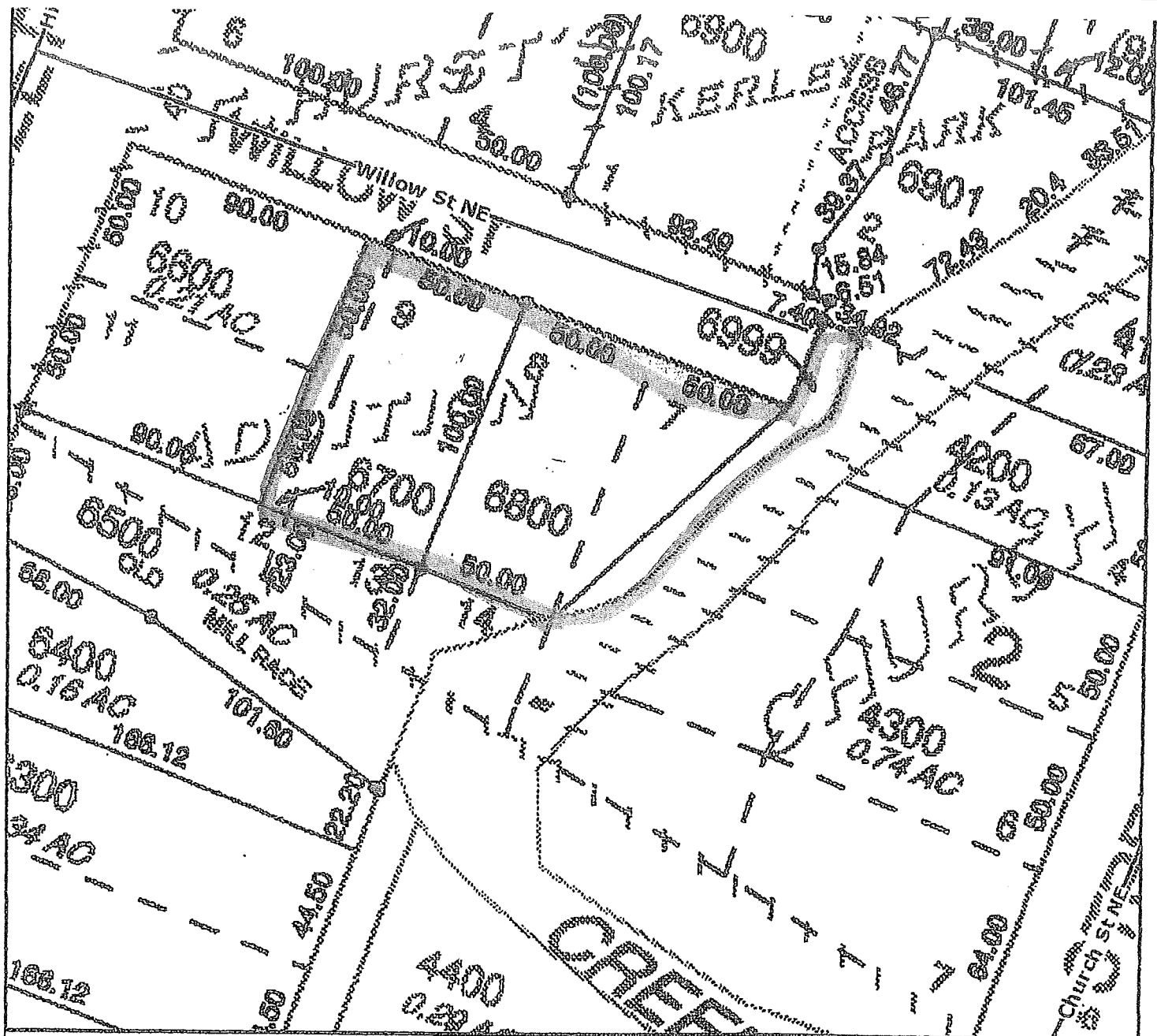
The subject property does have improvements both above and under the ground surface. A 1936 dwelling is located on Tax Lot 6800 closest to Mill Creek. A garage immediately west of the dwelling is partially located on the same Tax Lot but does encroach slightly onto Tax Lot 6700. The dwelling is habitable 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

Figure 1
Vicinity Map



First American Title

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

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N

Scale: 1"=50'

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

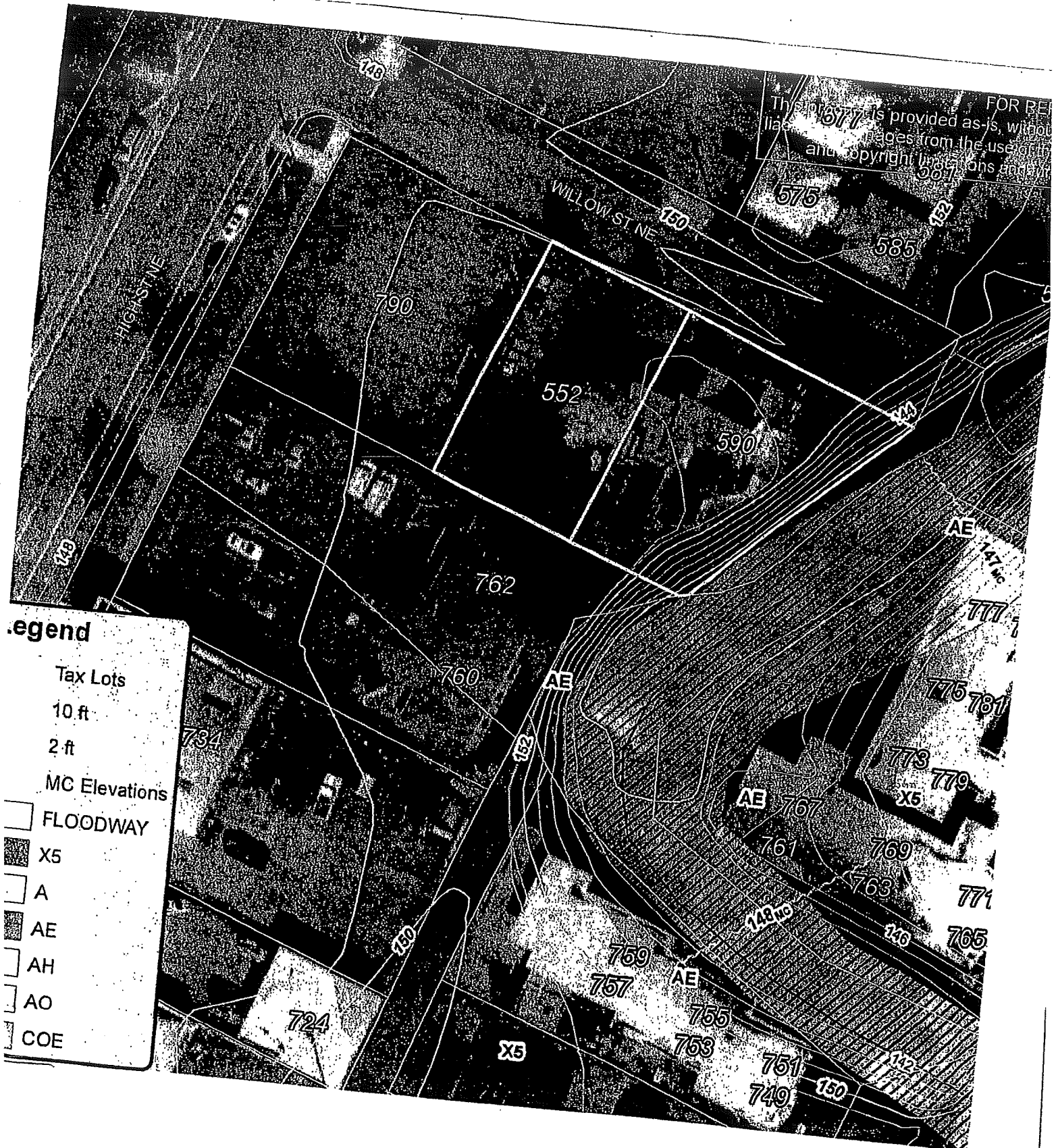
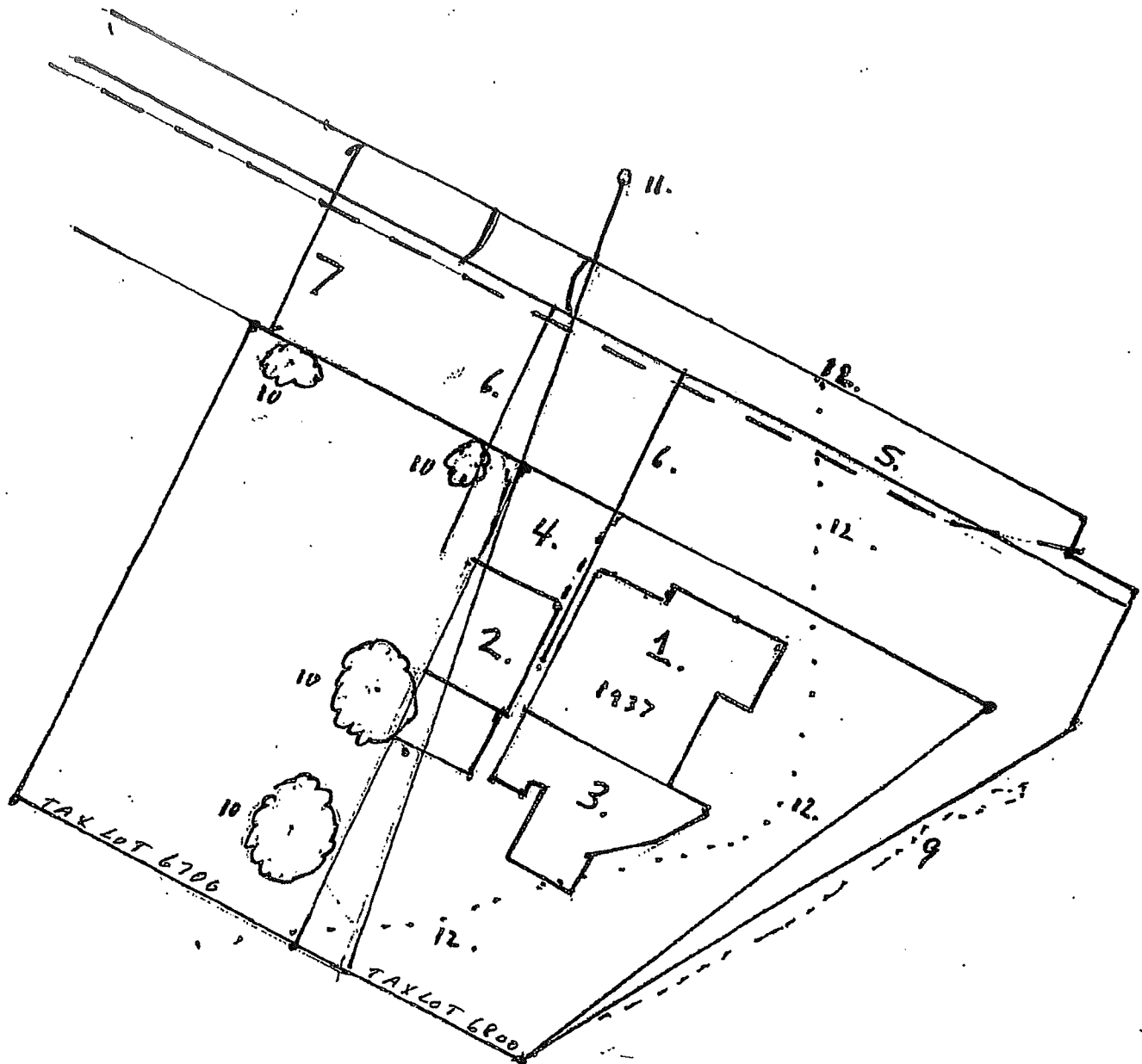


Figure 3
Existing Conditions



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



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 covey'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 13th 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.

- o 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.



MEMO

TO: Chris Green, Planner II
Community Development Department

FROM: Glenn J. Davis, PE, CFM, Chief Development Engineer
Public Works Department

DATE: June 6, 2016

SUBJECT: PUBLIC WORKS RECOMMENDATIONS
CPC-ZC NO. 16-03 (16-107145)
590 WILLOW STREET NE
COMPREHENSIVE PLAN/ZONE CHANGE

RECEIVED

JUN 07 2016

PROPOSAL

COMMUNITY DEVELOPMENT

A request to change the Comprehensive Plan Map designation and zoning of three tax lots between High Street NE and Mill Creek to "Commercial" to change the zoning from RS (Single Family Residential) with Compact Development Overlay to CR (Retail Commercial) and apply the Broadway/High Street Retail Overlay Zone.

The subject property is approximately 0.3 acres in size, zoned RS (Single Family Residential) with Compact Development Overlay, and located at 552-560 & 590 Willow Street NE (Marion County Assessor map and tax lot numbers: 073W22DA06700; 6800; and 6999).

RECOMMENDED CONDITIONS:

The proposal meets applicable criteria related to public works infrastructure.

FACTS

Public Infrastructure Plan—The *Water System Master Plan*, *Wastewater Management Master Plan*, and *Stormwater Master Plan* provide the outline for facilities adequate to serve the proposed zone.

Transportation Planning Rule—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 660-012-060. The Assistant City Traffic Engineer concurs with the applicant's TPR analysis.

CRITERIA AND FINDINGS

SRC 265.005(e)(1)(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

Finding: The applicant has submitted a TPR analysis pursuant to the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed CPC/ZC will not have a significant affect on the transportation system as defined by OAR 660-012-0060.

SRC 265.005(e)(1)(G) 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 zone.

Finding: The water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the existing and future tenants. Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 220.

JP/G:\Group\pubwks\PLAN_ACT\PA\Final16\ZoneChange\CPC_ZC 16-03 Willow ST NE 590 (16-107145).doc

Prepared by: Nathan Coapstick, Project Coordinator

cc: File