

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment
For 4318 Lone Oak Road SE from “Single Family Residential” to “Parks, Open Space and
Outdoor Recreation”**

Procedural Findings

On June 30, 2016, Mark D. Shipman, Saalfeld Griggs PC, on behalf of applicants Salem Tennis and Swim Club and Ad Out LLC, 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 “Parks, Open Space, and Outdoor Recreation” and to change the zoning from RS (Single Family Residential) to PA (Public Amusement). The consolidated application also includes a Site Plan Review request for a change of use and site improvements to the existing facility.

The consolidated application was deemed complete for processing on July 21, 2016. Notice of the consolidated proposal was distributed to City departments and public and private service providers and was mailed to the owners of all property within 250 feet of the subject property on August 17, 2016. The property was posted in accordance with the posting provision outlined in SRC 300.620.

State law (ORS 197.610) and SRC 300.620(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-day notice when an applicant or the City proposes an amendment to an acknowledged Comprehensive Plan or land use regulation or to adopt a new land use regulation. The City sent notice of this proposed Comprehensive Plan and Zone Change to DLCD on July 25, 2016.

Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Therefore, on September 6, 2016, the Planning Commission held a public hearing on the consolidated applications and recommended to the City Council that they approve the proposed Comprehensive Plan Map Change. Additionally, the Planning Commission approved the Zone Change and Site Plan Review application, contingent on the City Council’s approval of the Comprehensive Plan Map Change.

**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 there has been a change in the social, economic or demographic patterns of the nearby vicinity, and does not identify a conflict between the comprehensive plan designation and zoning designation for the subject property. The applicant proposes to change the Plan Map to “Parks, Open Space, Outdoor Recreation” and the zoning to Public Amusement on the justification that they are better suited for the property.

The goal of the “Parks, Open Space, and Outdoor Recreation” Comprehensive Plan designation is to provide a wide variety of both public and private parks, open spaces, and outdoor recreation sites. A community tennis and swim facility has operated on the subject property for more than 50 years, providing a needed recreational opportunity for the community. The proposed designation is more consistent with the historic use of the property and will allow the property to continue to be used in a similar manner, but will allow the facility to be run by a for-profit organization.

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.

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

Finding: The surrounding area is largely single family residential. Queen of Peace, a Catholic Church and school, is located to the north of the property within a RM-I (Multi-Family Residential) zone. The Parks, Open Space, Outdoor Recreation designation can be found dispersed throughout the city, and is used to support nearby residential uses.

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

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

Salem Urban Area Goals and Policies, Open Space, Parks and Recreation Goal (Page 44, Salem Comprehensive Policies Plan):

To provide for the recreation needs of the Salem urban area through the acquisition and development of adequate parks and recreation facilities.

Policy K.4. Private and public sectors should look for opportunities to meet park facility needs through cooperative agreements. The City shall provide the foundation for private programs or facilities, volunteers, and other appropriate methods to supplement and extend the City's resources in developing and maintaining the park system.

Finding: The existing facility currently provides recreational opportunities for the community, including tennis courts and pools for swimming. Findings from the Comprehensive Park System Master Plan Update¹ indicate that there is a need for more tennis courts and pools to serve Salem's population. Granting the comprehensive plan change ensures that the subject property has the ability to continue to provide needed community recreational services into the future.

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.

Policy J.7. The provision of transportation facilities and services shall reflect and support land use designations and development patterns as identified in the Salem Area Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand, residential densities, retail, and employment centers.

Finding: The subject property is located on Lone Oak Road SE, classified as a collector street in the Salem Transportation System Plan. Idylwood Drive SE, which is also classified as a

¹ City of Salem Comprehensive Park System Master Plan Update May 2013, Chapter 4 – Needs Assessment, Pages 51-53.

collector street, is located nearby to the south of the property. Both streets are developed with sidewalks. Salem Keizer Transit provides bus service to the intersection of Lone Oak Road and Idylwood Drive via route 8 within 500 feet of the property.

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 Faye Wright Neighborhood Association. This satisfies Citizen Involvement described in Goal 1.

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

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. Through the consolidated 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. Staff finds that the proposal is consistent with Goal 5.

Statewide Planning Goal 8 – Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Staff Response: The existing facility currently provides two unique types of recreational amenities to the community, tennis courts and pools for swimming. The Comprehensive Park System Master Plan Update indicates that overall tennis participation has increased approximately 20 percent between 2001 and 2011 nationally. A tennis court service level of one court per 7,500 residents translates to three additional courts to meet current needs and an additional 16 courts for population growth in 2035.

According to the findings in the Comprehensive Park System Master Plan, swimming pools were ranked as the top recreation facility need. In this case, the applicant is proposing to retain existing swimming facilities and proposes the addition of a splash fountain.

Granting the comprehensive plan change ensures that the subject property has the ability to continue to provide needed community recreational services into the future.

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

Staff Response: The subject property is zoned RS (Single Family Residential), but does not include any housing units. 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 surplus of approximately 1,975 acres of available single family zoned land. The proposal will decrease the amount of single family residential zoned land, however, given the surplus in available single family zoned land and that the property is currently developed with a non-residential use, the proposal will have a minimal impact on the ability for the City to meet future housing needs.

Ms. Louise Dix, Education & Outreach Specialist for Fair Housing Council of Oregon (FHCO) and Housing Land Advocates (HLA) submitted a letter into the record requesting the City defer adoption of the proposed amendment until the impact of the proposed amendment “on the City’s Goal 10 obligations is fully and adequately analyzed and documented.” The comments provided by FHCO and HLA are summarized as: the City’s proposed comprehensive plan map amendment must be in compliance with the statewide planning goals, including Goal 10; the staff report provides findings, as referenced herein, demonstrating compliance with Goal 10 in part; the City’s most recent residential buildable lands inventory identifies a deficit of 207 acres of lands available for multi-family residential uses; rezoning lands from the surplus of single family residential lands may be part of the solution for addressing deficit; and therefore, findings must be adopted demonstrating that the impact of the proposed comprehensive plan amendment will not adversely impact the known deficit of multifamily lands.

Goal 10 does not require that every Comprehensive Plan Map Change application be considered for Multiple Family Residential just because the City has a demonstrated deficit in that designation. The property, despite its Single Family Residential designation, has not been used for residential since it was built as a tennis and swim club in 1962 when it was outside of Salem city limits. This is an applicant initiated Comprehensive Plan Map Change, and the City is required to consider the request that is made. As such, the request from Single Family Residential to Parks, Open Space, Outdoor Recreation was analyzed based on the specifics of the property including the historical use of the property and the consolidated request to expand that use. However, the following supplemental findings are adopted to document how the City is working towards addressing the identified 20 year deficit.

On February 8, 2016, the City adopted Resolution 2016-05, which includes a work plan to address the known deficit of multi-family residential lands, a copy of which and all attachments thereto are attached hereto and incorporated herein by this reference (i.e., Resolution 2016-05, Salem Housing Needs Analysis and Economic Opportunities Analysis Summary Report, Salem’s Portion of the UGB Map, and Staff Report dated February 8, 2016). The HNA and the Work Plan can be found online here: <http://www.cityofsalem.net/salem-eoahna>

The work plan consists of a three phased approach at addressing the problem. The HNA Work Plan is described therein in relevant part: The three phases will be conducted consecutively. The first two phases will take approximately two and a half to three years to complete. Once the code amendments are implemented, staff will assess their impact in terms of the amount of new multifamily housing that is developed and will work with the Oregon Department of Land Conservation and Development (DLCD) to determine what deficit of multifamily land, if any,

remains. If there is an outstanding deficit, staff will begin the third phase of this HNA work plan, which may take approximately two years to complete depending on the size of deficit.

For each phase of work, staff will convene a stakeholder committee that will provide input. The committees, for example, will help develop and examine the different options for each code amendment. The committees are expected include neighborhood association representatives, developers, property owners, real estate professionals, and others. Staff will also conduct additional public outreach throughout the three phases to engage the broader community. The public outreach effort will include multiple tools to connect with interested parties. Staff will bring the code amendments to City Council for adoption.

The work plan accepted by the City is an appropriate means at addressing the known deficit. Phase 1 of the work plan is anticipated to take between 18 and 21 months to complete, and Phase 2 will take between 12 and 15 months to complete. These phases will cumulatively allow more accessory dwelling units, allow more multifamily housing types in the single family residential zones, revise design review process, revise the PUD process, and identify other incentives for multifamily housing. It is possible that these tools will address the deficit without redesignating lands.

However, even if redesignation of lands is needed, the subject property is an unlikely candidate for such redesignation. The accepted, but not adopted, BLI identifies it as only “partially vacant” land. The City has an excess of single family residential lands of approximately 1,975 acres or 9,130 dwelling units. This number is a function of the capacity of development units for single-family and developing residential (22,923) and housing demand (13,792). The total capacity was calculated by adding the capacity of vacant residential lands (Table 10) and the estimated capacity of mixed-use and commercial uses (Table 11). Therefore, the redevelopment of partially vacant lands will not affect the identified surplus vacant residential and mixed use lands that may be redesignated if the City implements Phase 3 of its work plan. The subject property is currently developed with a public recreational use that has been in operation since 1962, and therefore, it is a highly unlikely property for multi-family development when compared to the other properties in the BLI. Given these facts, the record contains adequate evidence that the proposed comprehensive plan map amendment complies with 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 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 propose development.

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 (Attachment E) 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. The Assistant City Traffic Engineer concurs with the TPR analysis findings.

Statewide Planning Goal 13 – Energy Conservation: *To conserve energy, land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.*

Staff Response: The subject property is currently developed as a recreational facility. The applicant proposes to retain and rehabilitate existing buildings, ensuring the efficient use of existing resources.

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 Parks, Open Space, and Outdoor Recreation is in the public interest and would be of general benefit because it would allow a for-profit organization to continue to operate an existing recreational facility in a similar manner. Given the historic use of the property, the Parks, Open Space, and Outdoor Recreation designation is better suited for the recreational use of the property than a single family residential designation. The proposed change in land use designation is consistent with the location and character of the property, with adjacent land use designations, and with the transportation facility which currently serves the property.