

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment  
for an approximately 0.52-acre site encompassing five taxlots at 800-868 Liberty Street  
SE and 440 Mission Street SE from “Single Family Residential” to “Commercial”**

**Procedural Findings**

On July 1, 2016, Jeff Tross of Tross Consulting, on behalf of applicants Dr. Tyson Scott and Jennifer Scott, 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) to CO (Commercial Office). On August 19, 2016, the applicant submitted an application for site plan review with an adjustment and driveway approach permit, and requested to consolidate these applications with the Comprehensive Plan and zone change application.

The consolidated application was deemed complete for processing on August 25, 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 31, 2016. The property was posted in accordance with the posting provision outlined in SRC 300.620.

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 proposed Comprehensive Plan and Zone Change to DLCD on August 16, 2016.

Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Therefore, on September 20, 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 applications for Zone Change, Site Plan Review, Adjustment, and Driveway Approach Permit, 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. There is no conflict between the existing “Single Family Residential” designation and RS (Single Family Residential) zoning. The applicant does not assert that an alteration in social, economic, or demographic patterns of the nearby vicinity has rendered the current designation inappropriate.

The parcel pattern established by previous residential uses on the site, and abutting single family residential development to the south and east (and north across Mission Street SE) are the only characteristics of the site suggesting suitability for future development consistent with the existing Single Family Residential designation. However, the location of the subject property at the intersection of two arterial streets severely diminishes the suitability of the site for future single family residential development. As noted in the applicant’s statement, the abutting streets carry several thousand vehicle trips per day, resulting in significant noise and visual impacts from two sides. By aggregating estimates from both Liberty Street SE and Mission Street SE, the applicant estimates a total of 48,985 vehicles per day travel along abutting streets. The applicant also notes that because the Liberty Street and Mission Street intersection is controlled by a traffic signal, one of the street frontages of the subject property is always exposed to vehicle stacking from the alternating red light phase. In addition, access management policies for arterial streets adopted in the Transportation System Plan (TSP) minimize direct access onto arterial streets in order to conflict points among vehicles.

In contrast, commercial office uses are less impacted by heavy traffic on abutting streets. Instead of providing direct access to several individual residences, access can be provided to the site by a single consolidated driveway and parking area, as proposed by the applicant in the

consolidated site plan review application. Because commercial office uses predominate on the nearby portions of the Liberty Street corridor, sufficient utilities and services are in place and well-suited to the proposed medical office development. Therefore, the Commercial designation proposed by the applicant is better suited to the subject property as the existing Single Family Residential 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:** Public water, sewer, and storm lines are located in both streets abutting the subject property, and are adequately sized to handle commercial development on the subject property. The subject property is at the corner of Mission Street SE, a minor arterial, and Liberty Street SE, a major arterial. The applicant proposes to take access to the public street network via a driveway approach onto Liberty Street. The proposal meets this criterion.

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

**Finding:** The proposed Commercial designation for the subject property would result in a logical continuation of the pattern of office development along the Liberty Street portion of the Liberty-Commercial couplet. This office corridor provides a linear buffer between more intensive traffic and commercial development along the couplet and the predominantly single-family residential neighborhood just to the east. 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**

*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 necessary public facilities, services and utilities are already in place and available to provide service to the subject property. Expansions of these services and systems may be needed as a result of the development of the site proposed in the application for site plan review and made possible by the proposed Comprehensive Plan Map amendment and zone change. The existence and availability of public services, facilities and utilities to the property fulfills this goal.

Salem Urban Area Goals and Policies, Residential Development Goal (Page 30, Salem Comprehensive Policies Plan):

*Policy E.8. Residential areas shall be protected from more intensive land use activity in abutting zones.*

**Finding:** Abutting properties to the east and south of the subject property are designated “Single Family Residential” on the Comprehensive Plan Map, zoned RS (Single Family Residential), and developed with single family residences. The Liberty-Commercial couplet, a major north-south arterial corridor, runs just to the west of the subject property. Properties directly abutting one or both of the arterials in the couplet form a corridor approximately two blocks in width, spanning from lots along the western frontage of Commercial Street to lots along the eastern frontage of Liberty Street, such as the subject property. Zoning districts within the corridor reflect a transition from single family residential areas to the east and the most intensive commercial development fronting Commercial Street at the west. For a five-block stretch, Commercial Street is fronted by lots zoned CR (Retail Commercial) and Liberty Street SE is fronted by lots zoned CO (Commercial Office).

Categories of commercial uses which tend to generate more vehicle traffic and other impacts from frequent visitors are not permitted in the CO zone, with the exception of certain limited retail and service uses that are frequently associated with office uses. The band of CO zoning along the eastern frontage of Liberty Street therefore forms a buffer between the heavier commercial uses on the western portion of the corridor and the residential development to the east, consistent with Policy E.8. The proposed Comprehensive Plan Map and zone change would continue this buffer northward by one-half block and provide similar protection for single family residential properties immediately to the east.

The proposal is consistent with this policy.

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

*Policy G.6. Commercial office uses shall have direct access to collector or arterial streets or be located within one-quarter mile of a collector or arterial street.*

**Finding:** Within policies establishing the “Commercial” designation, the Comprehensive Plan divides commercial uses into five categories; regional shopping facilities, community and neighborhood shopping and service facilities, convenience stores, commercial offices, and specialized shopping and service facilities. The consolidated application includes a zone change to CO (Commercial Office) and a site plan review for development of an outpatient foot and ankle clinic, a type of commercial office use.

The subject property has frontage on a Major Arterial (Liberty Street SE) and a Minor Arterial (Mission Street SE). The site plan submitted by the applicant as part of the consolidated application proposes to take access directly from Liberty Street SE. The arterial access available for commercial development on the subject property is consistent with this policy.

Salem Urban Area Goals and Policies, Scenic and Historic Areas, Natural Resources and Hazards Goal (Page 46, Salem Comprehensive Policies Plan):

*Policy N.3. Identified areas of significant architectural, archaeological, natural, ecological, historic or scenic value, which have been so designated and approved by the appropriate governing body, shall be protected for future*

*generations. Where no conflicting uses have been identified, such resources shall be managed to preserve their original character. When conflicting uses are identified, resources shall be protected by acquisition or by plans which limit the intensity of development and promote conservation of these resources.*

**Finding:** The original character of the surrounding historic district is primarily protected by design standards and guidelines adopted by the City, which serve as “plans which limit the intensity of development and promote conservation.” Compatibility of the design and materials of the medical office building will be reviewed for compliance with these standards by the Historic Landmarks Commission. The proposal is consistent with this policy.

*Policy N.10. The historic, cultural and architectural character of structures identified in the National Register of Historic Places and structures designated as historic buildings pursuant to the City’s land use shall be preserved. Preservation is achieved by limiting those uses that conflict with the historic resources, identified to be building alteration and demolition. The City’s land use regulations [sic] the process for alteration/demolition review and limitation, as well as the procedure for making additional designations.*

**Finding:** The site is currently vacant, and no alteration or demolition of existing structures is proposed. Therefore this policy is inapplicable.

The proposal is consistent with the applicable Goals and Policies of the Comprehensive Plan.

**Finding:** The applicable Statewide Planning Goals are addressed as follows:

**Statewide Planning Goal 1 – Citizen Involvement:** *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

**Finding:** A public hearing notice was mailed to the affected property owners, all property owners within 250 feet of the subject property and to the South Central Association of Neighbors (SCAN). This satisfies Citizen Involvement described in Goal 1.

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

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

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

**Finding:** At this time, there are no known scenic, historic, natural, or cultural resources on the affected parcels. The subject property is within the Gaiety Hill/Bush’s Pasture Park Historic District, a predominantly residential district listed on the National Register of Historic Places in

1986. The applicant has submitted a separate application for Major Historic Design Review to ensure compatibility of the proposed clinic building and related site development with the historic district. In addition, the application will be reviewed for compliance with the City's tree preservation ordinance, historic preservation ordinance, and applicable wetland standards through the application for site plan review consolidated with the subject application. The proposal is consistent with Goal 5.

**Statewide Planning Goal 7 – Areas Subject to Natural Hazards:** *To protect people and property from natural hazards.*

**Finding:** According to the City's adopted landslide hazard susceptibility maps, there is a relatively small area of landslide susceptibility on the subject property. The applicant has submitted a geotechnical assessment of the site to inform requirements for future construction on the site. There are no other known natural hazards existing on the subject property. The City's tree protection, landslide, and floodplain development standards have been applied during review of the consolidated application through the Site Plan Review process. The proposal is consistent with Goal 7.

**Statewide Planning Goal 9 – Economic Development:** *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

**Finding:** As described in findings above, a number of existing conditions, including limited access and extensive arterial frontage constrain future development of the site for uses generally allowed under the current Single Family Residential designation. The parcels have remained vacant for approximately ten years. Without redevelopment, neither the housing nor economic development potential of the site is realized. The proposal for a "Commercial" designation would allow economically productive use of the subject property, and make use of centrally-located, easily accessible location to provide necessary services to residents of the community and members of the regional workforce.

The proposed change to a Commercial designation will allow a limited number of compatible commercial uses at the site, including the foot and ankle clinic proposed by the applicant. The range of permitted uses of the subject property in zones implementing the Commercial designation better takes into account the location of the subject property and opens up opportunities for redevelopment of the site in an economically productive manner, consistent with the intent of Goal 9. The proposal is consistent with Goal 9.

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

**Finding:** The subject property consists of five lots providing a total of 0.54 acres of land for single family residential development. At least one of the existing lots (Tax Lot 5300) is below the minimum lot size of 4,000 square feet required in the RS zone, but could be developed with a single family dwelling as a nonconforming lot of record pursuant to SRC 270.015(b). As described in the applicant's statement and staff findings on SRC 64.025(e)(2)(A)(ii), future development of the subject property with single family dwellings is severely hindered by traffic impacts and limited access to the arterial streets which abut the site. All five lots making up the subject property have been vacant since the previous dwellings were demolished in 2010. In summary, the subject property could be developed with up to five single family residential

dwelling under its current designation, but unsuitable site characteristics make this type of redevelopment unlikely in the foreseeable future.

The City has accepted a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of land available for multifamily residential development. In order to address the deficit in land for multifamily development, the City is conducting the first of three phases identified in an accepted work plan. The proposal would convert less than one acre of land away from a single family designation, where the accepted, but not adopted HNA identifies a surplus. The proposed commercial designation and CO (Commercial Office) zoning allows for multifamily residential development as a permitted use. The proposal does not affect the City's ability to provide for its housing needs, and is therefore consistent with Goal 10.

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

**Finding:** Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule (OAR) 660-012-0060. This provision is triggered by amendments to comprehensive plans and land use regulations that “significantly affect” a surrounding transportation facility (road, intersection, etc.). Where there is a “significant effect” on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a “significant effect” is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either an amendment that “allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility,” or an amendment that would “reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP.”

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

The applicant submitted a Transportation Planning Rule (TPR) Analysis in consideration of the requirements of the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system, as defined by OAR 660-012-060. The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system if total traffic generated by the site does not exceed 250 trips per day. The Assistant City Traffic Engineer has reviewed the proposal and finds that it would not exceed the maximum amount of traffic allowed under the TPR analysis. 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.*

**Finding:** The subject property is inside the city. The proposal does not affect the size or location of the city limits or the Urban Growth Boundary. The proposal contributes to maintaining services for the urban population within a compact and efficient urban area. 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 “Commercial” designation would allow for suitable redevelopment of a property that has remained vacant for a number of years despite its prominent location at the corner of two arterials. The proposal meets this criterion.