

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment
for an approximately 0.2-acre site encompassing two taxlots at 3211 Duncan Avenue NE
from “Single Family Residential” to “Commercial”**

Procedural Findings

On July 18, 2016, Geoffrey James, on behalf of applicants Mitchell and Nancy Erwin, 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 CR (Retail Commercial).

After the applicant provided additional required information, the applications were deemed complete for processing on October 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 November 15, 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 2, 2016.

Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Therefore, on November 15, 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 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 a mistake has been made in the application of the Single Family Residential designation to the subject property. While the subject property has traditionally been developed with single residential use, the property was developed as a barber shop (personal services, through conditional use permit CU-SPR12-15). The abutting lot owned by the applicant provides for the expansion of the existing restaurant, with corner 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.

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. 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 south, east and west, support the suitability of the subject property for Commercial designation. The subject property is already being used for commercial development with a conditional use permit (CU-SPR12-15) for a barber shop. Utilities and services are available to support commercial development on the subject property, and the site, when combined with the abutting Commercial zoned property, has frontage along a Major Arterial (Silverton Road BE) in addition to its frontage on a local street (Duncan 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: 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. 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 Commercial designation will have a consistent depth from Silverton Road NE, with the area adjacent to the subject property. Because of the existing residential designation of the subject property, the Commercial designation along the northwest corner of Silverton Road and Duncan Avenue is only approximately 100 feet deep, and 6,000 square feet in size. The commercially-zoned property across Duncan Avenue NE to the east retains the 180-foot depth from Silverton Road NE which is typical for the intersection. The applicant's proposal would expand the depth of the commercial designation to more closely match the pattern established on the intersection. 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. 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):

To maintain and promote the Salem urban area as a commercial center for the Marion-Polk County metropolitan area.

Finding: The proposed commercial designation of the subject property would allow addition of an existing restaurant which will serve the Marion-Polk County metropolitan area. Transportation access to the subject property would promote use of a site within the Salem urban area as the commercial center for underserved areas inside and outside of the City limits.

Policy G.4. Community shopping and service facilities shall be located adjacent to major arterials and shall provide adequate parking and service areas. Land use regulations shall include provisions for siting and development which discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets.

Finding: The proposal is to expand an existing restaurant on the adjacent property. The existing restaurant located south of the subject property is located on Silverton Road NE, which the Salem TSP Street Plan classified as a “Major Arterial.” The property is adjacent to Duncan Avenue NE and near the intersection of Duncan Avenue NE/Evergreen Avenue with Silverton Road NE. Evergreen Avenue is designated as a Collector Street in the Salem TSP Street Plan. The transportation planning rule analysis concludes that the trips generated by land uses that are likely to develop will not adversely impact the immediate area nor will the project have a measureable impact to the existing transportation system.

The subject property is well-served by the street network in the vicinity, which includes Major Arterial, Silverton Road NE. The existing network of higher-classification streets will allow regional traffic to access the site without filtering through neighborhood residential streets.

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: The proposed Commercial designation of the site would facilitate the expansion of the existing restaurant to the south. The subject property is already being used for commercial uses with a conditional use permit (CU-SPR12-15) for a barber shop. The Commercial designation would be consistent with the existing use on the property. 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 allow the applicant to maximize the land area between the existing restaurant and barber shop, subject to uniform Comprehensive Plan designation and zoning.

Policy G.8. Buffer strips from residential uses shall be provided for all commercial development.

Finding: Commercial uses on the subject property would be subject to zone-to-zone setback requirements under SRC Chapter 521, Table 521-4. Buildings, accessory structures, and vehicle use areas in commercial use would be subject to a 15-foot setback from abutting

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

residential property lines, with Type C landscaping and screening. In addition, staff has recommended conditions of approval in findings on SRC 265.005(e)(1)(A) that require additional landscape and screening to ensure compatibility with existing residential development adjacent to the subject property. Therefore, the proposal conforms to this policy.

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 Northgate 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.*

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

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

Finding: There are no known scenic, historic, or cultural resources on the subject property. According to the Salem Keizer Local Wetland Inventory (LWI) there are no wetlands mapped on the subject property.

The application will be reviewed for compliance with the City's tree 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.*

Finding: The subject property is part of a contiguous ownership that includes a corner lot already designated "Commercial," zoned CR. 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 expansion of the existing restaurant, including parking, landscaping, and other site improvements.

The proposed comprehensive plan and zoning map amendment will convert approximately 8,712 square feet of residentially-zoned land to a commercial designation. Consistent with the City's obligations to provide economic opportunities under Goal 9, per OAR 660-009-0015, an Economic Opportunity Analysis (EOA) was adopted by City Council in October 2014. Consistent with economic development protections of Goal 9 and the objectives of understanding the

opportunities for the next 20 years, the report compared the supply of suitable buildable commercial land (298 acres) to the projected demand (569 acres) and concluded that there is a deficiency of 271 acres of commercial land to meet the 20-year growth demand. The EOA further concluded that roughly 40 percent of the commercial land deficiency, or approximately 100 acres, are needed for retail services, as detailed by the “Land Sufficiency” section in the EOA (pages 27-28).

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 open 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.*

Finding: In compliance with Goal 10, Housing, the City underwent a Housing Needs Analysis (HNA) to project the City’s housing needs over the course of 20 years from 2015 to 2035. The report, conducted by ECONorthwest, found that the City of Salem has a surplus of approximately 1,975 acres of land designated for single-family detached housing. Of the total residential and mixed-use comprehensive plan designations, eighty three percent of this area is land within the Developing Residential and Single Family Residential designations. Through these recent HNA and EOA studies, adequate recent analysis has been conducted to confirm that the applicant’s proposal to convert 0.2 acres of Single Family Residential land to Commercial will improve the balance of residential and commercial land within the City. The proposal will remove approximately 0.2 acres from the existing inventory of land that is designated for single family housing.

The existing surplus of land designated for single family detached housing, as identified in the Housing Needs Analysis and cited in the applicant’s written statement, includes more than enough remaining acreage to accommodate demand for single family residential development after deducting the roughly 0.2 acres that would be removed from the Residential designation under the applicant’s proposal. The HNA also indicates a shortage of available land for multifamily housing for the 2015 to 2035 time period. Multiple family housing is not permitted in the existing RS zone, and is listed as a conditional (rather than permitted) use in the CR (Retail Commercial) zone requested by the applicant.

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 development 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.*

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

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

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 has submitted a TPR analysis (Attachment E) that is required to address the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed CPC/ZC will not have a significant impact 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 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 was annexed into the City of Salem in 1946 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 is consistent with an orderly and efficient transition from rural to urban use for incorporated land adjacent to major transportation facilities. 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 Residential to Commercial is in the public interest and would be of general benefit because it would facilitate the provision of goods and services to a developing part of the City with relatively few commercial areas. As described above, the Plan Map amendment would help address a deficit of approximately 100 acres of retail commercial services identified in the Economic Opportunities Analysis.