

**Criteria and Findings for Proposed Comprehensive Plan Map Amendment  
for an approximately 80-acre site encompassing three tax lots at 3290 Boone  
Road SE from “Industrial” to “Industrial Commercial”**

**Procedural Findings**

On February 15, 2017, Project Delivery Group, on behalf of MWSH Boone Road Property, LLC, filed an application for a Comprehensive Plan Change and Zone Change to change the Comprehensive Plan Map designation of the subject property from Industrial to Industrial Commercial and to change the zoning from IP (Industrial Park) to IC (Industrial Commercial).

The application was deemed complete for processing on March 17, 2017. Notice of the consolidated proposal was distributed to City departments and public and private service providers on March 20, 2017 and was mailed to the owners of all property within 250 feet of the subject property on April 5, 2017. 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 March 8, 2017.

Pursuant to ORS 197.010(1), an amendment to the Comprehensive Plan Map must be approved by the City Council. Therefore, on April 25, 2017, 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 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 to the property. The applicant does not assert that a mistake has been made in the application of the Industrial designation to the subject property. The property was designated Industrial and zoned IP during the annexation process on April 4, 2011. Several factors make the subject property especially well-suited for the Industrial Commercial designation. The subject property has direct access to a collector (36<sup>th</sup> Avenue SE), and has close proximity to a designated parkway (Kuebler Boulevard SE), and a major freeway interchange at Kuebler Boulevard and I-5. The site is located south across Boone Road SE to a multiple family development designated Commercial and approximately 13-acres designated Industrial. An Industrial Commercial designation would allow development of the subject property consistent with the existing uses on adjacent properties and in the area, and allow a greater range of light industrial, commercial and possible multiple family uses. The proposal meets this criterion.

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 IC (Industrial Commercial) zoning proposed by the applicant as

part of the consolidated application allows multifamily housing as a conditional use, with no maximum density.

Considering these factors, the subject property is equally or better suited for the proposed designation than its current designation. The confluence of freeway, parkway, and arterial network in the area helps make the subject property especially well-suited to commercial development.

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 subject property is capable of being served through extension of public sewer from Kuebler Boulevard SE to the boundary of the property as specified in existing infrastructure master plans. Sewer infrastructure is available approximately 700 feet north of the subject property through extension of a 27-inch sewer main in 36<sup>th</sup> Avenue. An 18-inch S-1 water main is available in Boone Road abutting the property. Stormwater infrastructure is available from waterways located within and abutting the property. As indicated in the comments from the Public Works Department (Attachment C), streets, water, sewer, and storm water facilities are capable to serve the subject property.

The subject property is located outside of the Urban Service Area and will be required to apply for an Urban Growth Area (UGA) Preliminary Declaration permit prior to construction to address linking and boundary facilities required to service the property under standards and requirements of SRC Chapter 200. The proposal meets this criterion.

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

**Finding:** While existing development in the immediate vicinity of the subject property is primarily rural in character, these lands are within the Urban Growth Area and City limits and expected to develop at an urban intensity in the future. The subject property sits near a large industrial area zoned by Marion County as UT-10 and General Industrial to the east, Developing Residential to the south and Industrial and Commercial lands to the north, including a residential care facility.

The applicant's written statement describes the current limitation of uses within the IP zone and that the proposal would address deficiencies in both commercial and multiple family development in the area. The property is 80 acres in size and would provide for an opportunity for various light industrial, commercial and residential care uses and would provide for a less-intense transition to the residential designated property to the south. An Industrial Commercial Plan Map designation would be consistent with the surrounding area of Industrial and Commercial designations, and the mixture of land uses that have developed according to that designation. Staff finds that the proposal satisfies this criterion.

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:

Comprehensive Land Use Map, Intent (Page 3, Salem Comprehensive Policies Plan):

*The intent of the Salem Area Comprehensive Plan is to project a goal: the most desirable pattern of land use in the Salem area. This pattern, as represented on the Comprehensive Plan Map, indicates areas appropriate for different types of land use. The pattern takes into consideration the transportation network, the location of public facilities and utility systems, and the needs of the people which are important to the creation and maintenance of a healthful and pleasing urban environment.*

*To ensure that the anticipated urban land use needs are met, the Plan Map demonstrates a commitment that land for a wide variety of uses will be available at appropriate locations as needed. There are two approaches to achieving this commitment. One approach is the rezoning of land in quantities sufficient to accommodate land use demands identified for the planning period. Another approach is through the phased provision of land over time, through annexation and rezoning in response to demand for specific land uses. . . .*

*It is the later approach that the Salem Area Comprehensive Plan has taken, thus the land use pattern that is shown on the map recognizes the zoning that has developed over time, with general designations of the land uses that are expected to be developed as a result of (1) demand, (2) the plan policies and the intent statements, and (3) implementing regulations and processes. This plan recognizes that the land use and zoning is expected to change during the time span of the plan as conditions change.*

**Response:** This proposal to change the Comprehensive Plan Map designation from Industrial to Industrial Commercial on the subject property is made in response to changing economic conditions and the need for greater flexibility for the use of existing industrial lands. By providing a Comprehensive Plan Map designation consistent with the existing land use and development patterns of the surrounding properties, the change would provide the applicant with more flexibility for development of 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 proposed Industrial Commercial designation allows a range of commercial and small-scale industrial uses. 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 IC (Industrial Commercial) zoning proposed by the applicant as part of the consolidated application

allows multifamily housing as a conditional use, with no maximum density.

Urban Growth Policies (Page 13, Salem Comprehensive Policies Plan):

- a. To contain urban development within planned areas where basic services such as sewers, water, facilities, police and fire protection can be efficiently and economically provided.*
- b. To conserve resources by encouraging orderly development of land.*
- c. To preserve and enhance the livability of the area.*
- d. To use public facilities and services as a framework for urban development.*

**Response:** 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, General Development Policy 7, Optimal Use of the Land (Page 25, Salem Comprehensive Policies Plan):

*Structures and their siting in all residential, commercial and industrial developments shall optimize the use of land. The cumulative effect of all new residential development in the Salem urban area should average 6.5 dwelling units per gross acres of residential development. Development should minimize adverse alteration of the natural terrain and watercourses, the potential of erosion and adverse effects upon the existing topography and soil conditions.*

**Response:** The Comprehensive Plan Map Amendment would provide a uniform Industrial Commercial designation, and allow the currently undeveloped subject property to be redeveloped with a mix of uses that would be more compatible with and more suitable for the character of the neighborhood and the surrounding land uses, than heavy manufacturing industrial uses. The property has significant topography on the southwestern portion of the property. The applicant states that design of the area will take into account the need to minimize any “adverse alteration” of the natural terrain.

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.*

**Response:** The necessary public facilities, services and utilities are already in place

and providing service to the subject property. Expansions of the services and systems may be needed as a result of the planned development of the remainder of the site that will be made possible by the proposed Comprehensive Plan Map amendment with concurrent Zone Change. The existence and availability of public services, facilities and utilities to the property fulfills this goal.

Salem Urban Area Goals and Policies, Industrial Development Goal (Page 37, Salem Comprehensive Policies Plan):

*Policy I.1. Maintain a long-term (20 year) industrial land inventory which provides a full range of small, medium, and large parcel sizes and locations to sustain a competitive market for industrial sites. Maintaining a long-term supply of industrial land will require identifying and preserving key high value industrial land, especially where the City has made substantial investments in infrastructure. High value industrial land has the following characteristics: it is designated for industrial uses, in flat parcels, most frequently in large parcels at least 10 acres in size, located within an industrial district, has direct access to a state highway or I-5, and is serviced or planned to be serviced with water and wastewater infrastructure.*

**Finding:** Based on the criteria provided in Policy I.1, the subject property has some characteristics of high value industrial land, including being larger than 10 acres, and highway access. However, the property is not completely flat, as described in the policy, and is adjacent to several zoning designations including Residential Agriculture and Commercial Office. “Industrial district” is defined in Policy I.16 as having a “continuity of design and uses on preferably medium-sized parcels (10 to 40 acres in size).” The property north of the subject property contains a multiple family development. The property characteristics and mix of uses found in the vicinity of the subject property clearly do not meet the ideal location of high value properties within a cohesive “industrial district.”

The Industrial Commercial designation and corresponding IC zone permit a wide range of industrial uses. Development patterns in the immediate vicinity have reflected a mix of industrial and commercial uses. Amending the Plan Map to designate the subject property Industrial Commercial would allow for a range of uses that more closely aligns with the overall land use trend in the area.

*Policy I.2. Identify areas that may be appropriate for converting from industrial to commercial or other non-industrial uses over the long-term. The characteristics of industrial land that may be appropriate for commercial or other non-industrial uses include some or all of the following: (1) located outside of industrial areas or isolated from other industrial uses, (2) surrounded by incompatible uses (such as housing), (3) located adjacent to properties that have converted to commercial uses, (4) have limited or no access to major roads (such as arterial streets, collector streets, or highways), or (5) lacks rail access.*

**Finding:** Although the IC (Industrial Commercial) zoning proposed by the applicant allows a wider range of commercial activities than the existing Industrial Park zoning, the proposal would replace the exclusively “Industrial” designation of the property on the current Plan Map with the more flexible “Industrial Commercial” designation. Accordingly, the proposal could be interpreted as converting industrial land to partially commercial or other non-industrial land. Under this interpretation, the proposal is still an appropriate area for conversion to commercial uses under the criteria established in Policy I.2, as summarized below.

*(1) Located outside of industrial areas or isolated from other industrial uses*

The property is located outside of an industrial “district” as defined in Policy I.16, and is abutting residentially zoned property to the south and a developed residential care facility to the north.

*(2) Surrounded by incompatible uses (such as housing)*

Surrounding uses to the east are more compatible than housing, but the subject property abuts both a property zone Residential Agriculture zone and a multiple family development, two uses that are incompatible with some of the heavier industrial uses allowed in zones implementing the “Industrial” designation.

*(3) Located adjacent to properties that have converted to commercial uses*

The existing residential care facility to the north of the subject property was converted from industrial to commercial uses in 2008 (CPC-ZC07-09).

*(4) have limited or no access to major roads (such as arterial streets, collector streets, or highways)*

The subject property has excellent access to major roads, both arterials and highways. This criterion does not support conversion to commercial uses.

*(5) lacks rail access*

There nearest rail access is east of 36<sup>th</sup> Avenue, nearly 0.30-mile away.

Staff finds that 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**

A public hearing notice was mailed to the affected property owners, all property owners within 250 feet of the subject property and to the Southeast Mill Creek Association and South Gateway Neighborhood Association. This satisfies Citizen Involvement described in Goal 1.

## **Statewide Planning Goal 2 – Land Use Planning**

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**

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 mapped wetlands on the subject property. The Local Wetlands Inventory shows hydric soils on the subject property, as noted in comments from the Oregon Department of State Lands (DSL). The applicant states that they anticipate jurisdictional wetlands near the drainage way on the site. The applicant may be required to conduct a wetland determination for the subject property and may need to submit the determination to the Oregon Department of State Lands (DSL) for review and concurrence.

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. No resources have been identified or designated on the subject property under Goal 5.

## **Statewide Planning Goal 6 – Air, Water and Land Resources Quality**

The property is primarily undeveloped. The surrounding area is already developed with a single family neighborhood (across I-5), a mix of commercial and industrial land uses to the east and a residential care facility (Bonaventure) to the north. There is a natural drainage-way that bisects the property, which will be evaluated prior to any development. The property is currently designated as industrial land, which allows for intensive development and use. The proposed Plan change will allow for light industrial use and commercial uses. The impacts of those types of uses will be not greater than those of heavy industrial uses. The property abuts I5, on a developed corridor where commercial and industrial uses are expected to continue. The proposed Comprehensive Plan Map amendment from Commercial to Industrial Commercial with concurrent Zone Change to IC (Industrial Commercial) will not alter the density or form of development on the subject property. Because uses on the subject property will continue to allow commercial and industrial activities, the proposed Plan change will not increase the potential effects on air, water and land resource quality at this location. Staff finds that the proposal is consistent with Goal 6.

## **Statewide Planning Goal 9 – Economic Development**

OAR 660-009-0015 requires that Comprehensive Plan Map amendments, which change the designation of land in excess of two acres from an industrial or employment use designation to a non-industrial designation be supported by an analysis of economic development trends for the inventory of industrial land within the urban area for a 20-year planning period. Such analysis must be adopted by the City Council in order to be used as a Goal 9 finding in a local government decision to amend a Plan

Map. 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 surplus of industrial land and a shortage of approximately 100 gross acres of retail commercial land within the Salem UGB.

In this case, the subject property is currently designated Industrial and it is zoned IP (Industrial Park). The IP zone allows for industrial uses and some commercial uses. The proposal is to change the Plan Map designation of the subject property from Industrial to Industrial Commercial with a concurrent zone change from IP to IC (Industrial Commercial). The IC zone includes a full range of industrial and commercial permitted uses and maintains the capability for industrial development. Since the IP and IC zoning designations allow similar industrial uses, the potential for industrial development and economic development of the site will not decrease. Based on this, the proposal effectively is not a change to a non-industrial use.

In any case, the proposed change to Industrial Commercial will increase the number of permitted uses at the site and thereby open up opportunities for economic development such as new professional and business services, and entrepreneurial and artistic uses at this location, consistent with the intent of Goal 9.

### **Statewide Planning Goal 11 – Public Facilities and Services**

All necessary public services and utilities including water, sewer, storm drainage, streets, fire and police protection, public transit, electricity, telephone, and solid waste disposal, are currently or can be made available. The provision of public facilities and services are adequate for potential industrial and commercial uses on the subject property. Therefore, the proposal meets the requirements of Goal 11.

### **Statewide Planning Goal 12 – Transportation**

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 submitted a Transportation Planning Rule (TPR) analysis in consideration of the requirements of the TPR (OAR 660-012-0060). The TPR analysis is required to demonstrate that the proposed CPC/ZC will not have a significant impact on the

transportation system as defined by OAR 660-012-0060. The City Traffic Engineer concurs with the TRP analysis findings and recommends a condition to limit the development on the 80 acre site to 12,916 vehicles per day.

The City Traffic Engineer has reviewed the proposal and finds that the TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change will not have a “significant affect” on the transportation system as defined by OAR 660-012-0060, with the proposed zone change condition. The proposal meets the requirements of Goal 12.

### **Statewide Planning Goal 13 – Energy Conservation**

**Finding:** The property is located within the developed urban area. The transportation system in this area is fully established and makes access to the property direct, efficient, and convenient by motorized and non-motorized forms of transportation. The property’s location within the existing city limits, along a major travel route serves to reduce the vehicle miles travel to reach the site, which conserves energy. Staff finds that the proposal is consistent with Goal 13.

### **Statewide Planning Goal 14 – Urbanization**

**Finding:** This application does not affect urban growth areas, as the property has been within the City of Salem since 2011. The change in land use designation from Industrial to Industrial Commercial is consistent with the designation of surrounding properties and existing commercial and light industrial development to the east. Therefore, staff finds that the proposal is consistent with Goal 14.

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

**Applicant Statement:** The proposed amendment is in the public interest because it would create a “commercial center” that would serve the surrounding single family neighborhoods, conserve energy by reducing travel times and create a variety of commercial, hospitality and residential uses. This would contribute to providing more employment opportunities in the area in addition to enhancing the livability of the community through the creation of a unique commercial mixed use development.

**Finding:** The proposed Comprehensive Plan Map amendment from Industrial to Industrial 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. 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 for siting commercial facilities, and with the transportation facilities available to serve the property. The proposal satisfies this criterion.