



Oregon

Kate Brown, Governor

Department of Transportation Region 2 Headquarters

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DATE: August 17, 2020

TO: Lisa Anderson-Ogilvie, Planning Administrator
Bryce Bishop, Planner II
Members of the Salem Planning Commission

SUBJECT: Case No. CPC-PC-ZC20-04

This letter represents our response and rebuttal to the staff report issued on August 12, 2020 in regard to the subject application. It summarizes our position relative to recommendations and alternatives proposed by staff, and includes comments related to additional testimony provided since the August 4 Planning Commission hearing.

Staff Recommendation

City Planning staff continue to recommend denial of our proposed application. As we have stated previously, we have prepared findings in support of the proposed amendments to the zoning and Comprehensive Plan designations on the site and continue to assert that those findings adequately address the City's approval criteria and reflect conditions on the site and in the surrounding neighborhood. Denial of the application, and particularly of the proposed rezoning of the portion of the site currently zoned for multi-family use, will have an adverse impact on ODOT, a partner agency to the City of Salem, in a number of ways.

- Will limit the ability of ODOT to use this site as has been planned and intended for over 30 years, i.e., for the repair, configuration, testing, and storage of traffic signs and signals which has been ongoing since at least the early 1990s on both the portion of the site currently zoned for General Commercial (CG) use, as well as the two northernmost parcels currently zoned for multi-family (RM2) use. The latter portion of the site has been used as access and storage area for at least 27 years and that use pre-dates the rezoning of the southern half of ODOT's property to the multi-family designation.
- Will require ODOT to find alternative sites for storage of signs after they are tested and configured within the facility. This will essentially require ODOT to find alternative storage sites and transport the signs twice, once to an interim storage site and a second time for their use on Oregon's roadways. This will result in significant expenses paid by the taxpayers of Oregon.

For these reasons, we do not support staff's continued recommendation to deny the applications.

Staff Alternative 1

Staff have provided the Planning Commission with two options should they choose to approve the application. The first option would be to approve only the proposed rezoning of the CG portion of the site. We oppose this option for the following reasons.

This option ignores ODOT's primary reason for the proposed rezoning applications, i.e., to be able to use at least a portion of the area zoned for RM2 as an expanded outdoor storage area for signs and signals. While ODOT has proposed rezoning the CG portion of the site to bring that area into conformance with the City's zoning designations, that is a secondary and much less important objective for ODOT.

Conditions recommended by staff will impose significant costs and burdens on ODOT which are not reasonable or proportionate to the benefits or impacts associated with the rezoning. The required landscape setbacks would remove a significant portion of the site from ODOT's use. Required setback areas represent approximately 10,800 square feet or about 18% of the CG portion of the site, a significant reduction in usable area which will have an adverse impact on ODOT's operation of the site. The cost of landscaping this area (a cost that would be a public expense) has not been estimated but it is expected to be significant. In addition, the location of landscaping setbacks proposed by staff on the north edge and northwest corner of the site would have impacts on access to that portion of the site. It would require reconfiguration of the existing electronic gate in that location and would reduce the area available for parking and access along northern edge of the site, also hampering the effective operation of the facility. On the western edge of the site, adding the required landscape buffer would require removing and disposing of a significant amount of pavement in that area. While we agree that it would improve the appearance of that edge of the site, it would result in significant expense and loss of sizable portion of the site in that area.

We would also note that the proposed landscape setback and buffer required on the northern portion of the site would serve no real purpose, given that edge of the site already has a site-obscuring fence and vegetation running along the entire length of the site. Adding the landscape setback area on the ODOT side of the property line would increase the buffered area but the additional landscaping would not be visible behind the existing fence and would have no visual benefit for people north of the site.

Staff Alternative 2

This alternative would approve both of ODOT's proposed rezoning applications. However, the proposed conditions, while potentially allowed by the City's code, would impose significant costs and adverse impacts on ODOT. As noted in our response to Alternative 1, conditions imposed on the CG portion of the site would impact the usability of that portion of the site and be very costly. Similar conditions imposed on the RM2 portion of the site also would significantly reduce the usable portion of that site and would result in significant expense incurred by ODOT. ODOT very recently installed a fence around this portion of the site for security purposes (less than two years ago). Under this Alternative, the proposed conditions would require ODOT to move or remove this newly installed fence at significant expense. If Alternatives 1 and 2 are the only options the Planning Commission may consider, ODOT would consider Alternative 2 to be preferable. However, as summarized below, we would recommend a third alternative which we believe would be more beneficial to all parties.

ODOT Proposed Alternative (3)

Given the relative impacts and benefits described above and based on further evaluation of site needs by ODOT Sign and Signal Shop staff, we recommend the following option.

1. Withdraw our application for rezoning the CG portion of the site to the Public Service (PS) designation. As described above, the conditions associated with rezoning this portion of the site would be very costly for ODOT and far outweigh any benefits. ODOT had proposed rezoning of this portion of the site to be in conformance with City zoning designations, i.e., to do the right thing as we have previously stated. This would have the benefit of allowing further modifications to the facility on this portion of the site as it

would no longer be a non-conforming use. However, because ODOT has no immediate plans to expand or change the basic configuration of these structures, this ultimately would have little to no benefit. Leaving the site in the CG zone also will address City staff's concerns about reducing the City's supply of commercially zoned land.

2. Reduce the extent of the rezoning of the RM2 portion of the site. We recommend limiting the rezoning to the four RM2 parcels that form the southwest corner of the site as shown in the attached maps (Tax Lots 5600, 5700, 5800, and 5900). ODOT staff have determined that this is the minimum usable amount of space needed for proposed future storage of signs and equipment on the southern portion of the site. This change would have benefits for both ODOT and the City. It would reduce the amount of land rezoned from the RM2 to the PS designation by approximately 45%, with less than 0.5 acre rezoned, and leaving approximately 0.4 acre of the RM2 zone in place. While we continue to assert that this land is not considered in the City's Housing Needs Analysis as actual capacity for future residential development, it would reduce the impact of the rezoning on paper and help address this aspect of staff's opposition to the rezoning. In addition, it would reduce the size and associated expense of the required landscape setback areas for ODOT. It also would reduce the extent of required lot consolidations and property line adjustments recommended by staff in their proposed conditions of approval.
3. Provide additional flexibility in meeting landscape setback and buffering requirements on the ODOT proposed RM2 rezoned portion of the site. While we understand that the City may impose conditions on a zone change, including conditions associated with meeting development standards, we do not believe the City is mandated to require full compliance with such standards. As noted earlier, complying with the landscape setback standards will result in significant cost to ODOT that is not proportionate to proposed development on the site (i.e., no proposed future structures or other improvements). We recommend that the City work with ODOT to agree on a reasonable plan for fencing and landscaping that meets the City's objectives for improving the appearance of these areas while reducing impacts on loss of use of portions of the site and cost of landscaping and fencing. This could include some combination of the following: allowing for vegetation to be placed either within or outside the existing fence (to minimize the need to move the fence); allowing for the fence to be made sight-obscuring in lieu of planting a six foot hedge (as is permitted in Unified Development Code Section 544.010(e) – development standards for the 'PS' zone related to screening of outdoor storage); and/or reducing the width of the landscape setback area, particularly along the south edge of the proposed rezoned area.

Additional Comments

We note that the City received three additional public comments in support of our application:

1. Letter from ODOT senior management staff noting the importance of this facility in providing an essential statewide and local public benefit.
2. Email from the Highland Neighborhood Association confirming and affirming their earlier support as documented in our application.
3. Letter from City of Salem Traffic Signal Maintenance Supervisor Eric Schrunk (copy attached) highlighting the importance of the facility to the City of Salem and the public

benefit it provides his department and by extension Salem community members (including those in the surrounding area).

These letters are further indication of the public benefit of the proposed land use application and of community support for it.

We also note that City staff took the initiative of contacting the Fair Housing Council of Oregon to ask them to provide their opinion about the rezoning. We consider this a somewhat unprecedented action in our experience, given that we testified that this group often opposed similar zone change applications in other communities. Staff highlights the fact that a representative of the Fair Housing Council noted support for City staff findings (i.e., they are well written). However, we would highlight two other aspects of the letter. First, the Fair Housing Council chose not to make a formal public comment (either in support or opposition to the application). Second, the letter noted that one of the organization's board members noted that *"you have a lovely 2015 HNA that was never adopted. According to them, this amendment would likely not have been a problem if Salem adopted and complied with its 2015 HNA and rezoned for more multifamily throughout the city."* Rather than opposing our application, this comment puts the onus on the City to resolve its deficit of multi-family land by rezoning an adequate amount of land for that purpose in other areas of the City.

Thank you for the opportunity to respond to the materials contained in the staff report.

Sincerely,



Daniel L. Fricke
Senior Transportation Planner

cc: Galen McGill
Jason Shaddix
Laura Wilson
Ron Blacketer
Sonny Chickering
Lisa Nell
Matt Hastie
Courtney Simms

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SALEM



MARION COUNTY, OREGON
SE1/4 NE1/4 SEC15 T7S R3W W.M.
SCALE 1" = 100'

LEGEND

LINE TYPES

- Historical Boundary
- Historical Boundary
- Easement
- Railroad Right-of-Way
- Private Road ROW
- Subdivision Plat Boundary
- Waterline - Taxlot Boundary
- Waterline - Non Boundary

CORNER TYPES

- + 1/16TH Section Cor.
- ⊙ D/L Corner
- ⊕ 1/4 Section Cor.
- ⊕ 16' 25' Section Corner
- ⊕ 21' 22' Section Corner

NUMBERS

Tax Code Number
000 00 00 0

Acreage
0.25 AC
All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES

Tick Marks: A tick mark in the road indicates that the labelled dimension extends into the public ROW

CANCELLED NUMBERS

100	1900
101	1901
400	2000
401	2001
500	2100
501	2101
600	2200
601	2201
700	2300
701	2301
800	2400
801	2401
900	2500
901	2501
1000	2600
1001	2601
1100	2700
1101	2701
1200	2800
1201	2801
1300	2900
1301	2901
1400	3000
1401	3001
1500	3100
1501	3101
1600	3200
1601	3201
1700	3300
1701	3301
1800	3400
1801	3401
1900	3500
1901	3501

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY

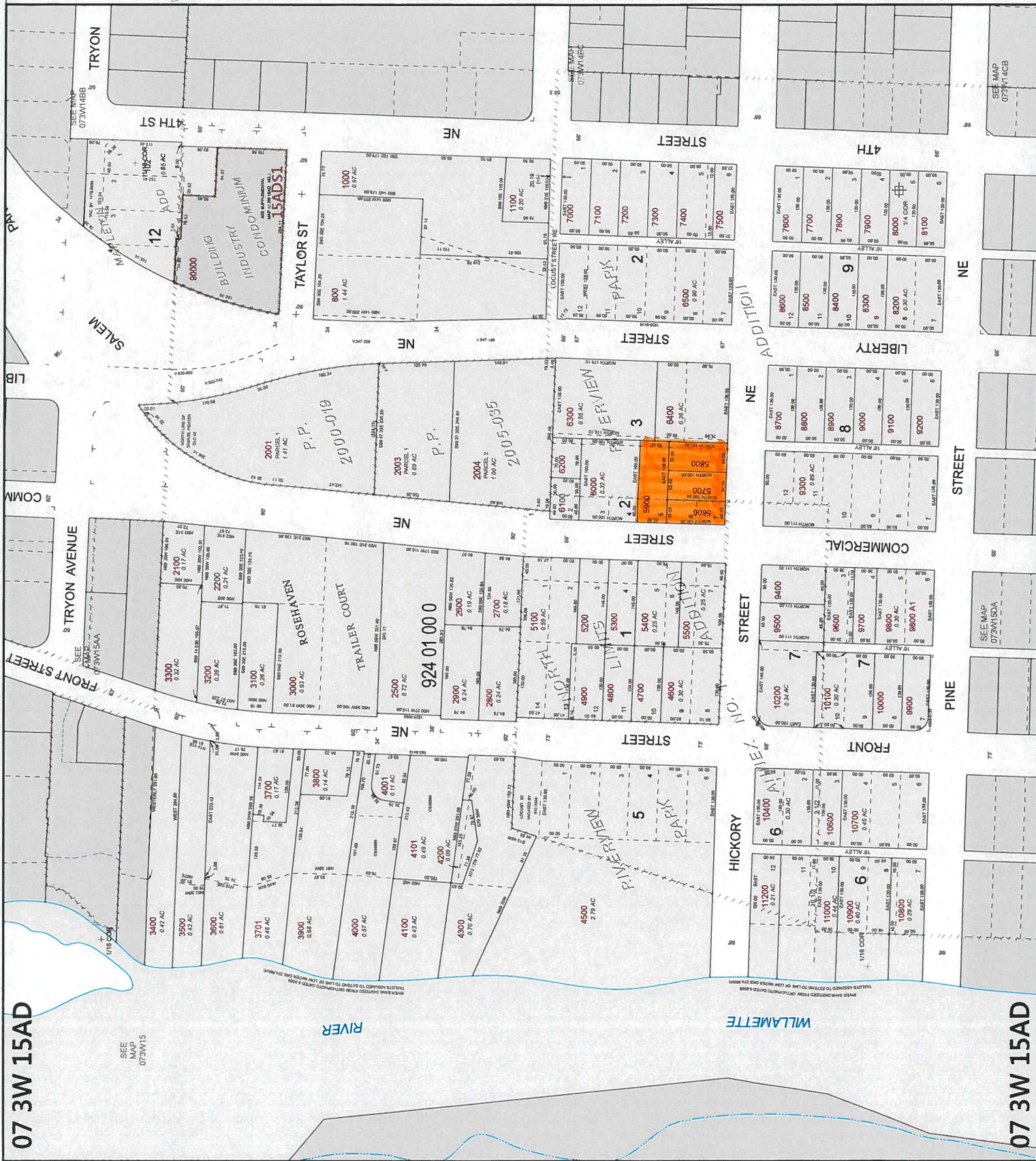


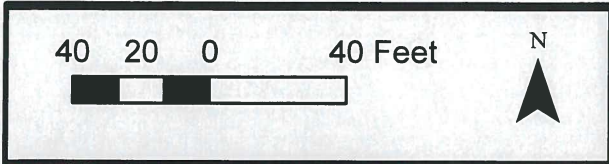
FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.marion.or.us

PLOT DATE: 1/24/2018

SALEM

07 3W 15AD





40 20 0 40 Feet



N



Existing CG Zoning
(no change)

Proposed PS
Zoning
Previously
RM-2

Existing RM-2
Zoning
(no change)