

**FACTS & FINDINGS**

**COMPREHENSIVE PLAN CHANGE / NEIGHBORHOOD PLAN CHANGE / ZONE CHANGE CASE NO. CPC-NPC-ZC20-04**

- 1. General.** The application subject to this decision is a consolidated application for a Minor Comprehensive Plan Map Amendment, Minor Neighborhood Plan Map Amendment and Zone Change for nine properties owned by the Oregon Department of Transportation (ODOT) and located in the 2400 block of Commercial Street NE and Liberty Street NE (Marion County Assessor Map and Tax Lot Numbers: 073W15AD05600, 5700, 5800, 5900, 6000, 6100, 6200, 6300, & 6400).

Four of the properties owned by ODOT, which comprise the northern half of their site, are currently designated "Commercial" on the Salem Area Comprehensive Plan Map, zoned CG (General Commercial), and developed and used for ODOT's traffic signal facility shop. The remaining five properties, which comprise the southern half of their site, are designated "Multiple Family Residential" on the comprehensive plan map, zoned RM-II (Multiple Family Residential), and undeveloped except for a driveway and a few storage containers.

As indicated in the written statement provided by the applicant, ODOT plans to extend their existing use of the site into the undeveloped southern portion of the property, but under the existing comprehensive plan designation and zoning neither the CG (Commercial General) or the RM-II (Multiple Family Residential) zones allow Governmental Maintenance Services and Construction, the use classification the existing traffic signal facility shop falls within.

Because their existing use of the property is non-conforming, and because their proposed expansion of the use onto their RM-II zoned property is similarly not allowed, ODOT is seeking to change the comprehensive plan and Highland neighborhood plan map designations of the property to "Community Service Government," together with a zone change to PS (Public Service), in order to place the entire site within one comp. plan/zoning designation that allows their existing and planned use of the site.

Under the proposed "Community Service Government" comprehensive plan designation and PS (Public Service) zone the existing traffic signal facility shop would become a conforming permitted use and ODOT would be able to expand their use of the site to the southern undeveloped portion of the property where they propose to utilize it for the ongoing temporary storage of variable message signs to be used on future ODOT projects.

The proposal requires the following land use approvals:

- 1) A Minor Comprehensive Plan Map Amendment to change the Comprehensive Plan Map designation of the subject property from "Commercial" and "Multiple Family Residential" to "Community Service Government."

2) A Minor Neighborhood Plan Map Amendment to change the Highland Neighborhood Plan general land use map designation to "Community Service Government."

3) A Quasi-Judicial Zone Change to change the zoning of the subject property from CG (General Commercial) and RM-II (Multiple Family Residential) to PS (Public Service).

On August 25, 2020, the Planning Commission's decision was issued approving the application subject to conditions of approval. That decision was subsequently called-up for review by the City Council, pursuant to SRC 300.1050, on September 14, 2020, and the City Council later conducted a public hearing to receive evidence and testimony regarding the proposal on October 12, 2020.

**2. Approval Criteria.** The applicable criteria that must be satisfied in connection with the proposal are included under the following sections of the SRC:

- Minor Comprehensive Plan Map Amendment and Minor Neighborhood Plan Map Amendment: SRC 64.025(e); and
- Zone Change: SRC 265.005(e).

As identified in facts and findings set forth herein, the proposal does not satisfy all of the approval criteria applicable to the application

**3. Salem Area Comprehensive Plan (SACP)**

Comprehensive Plan Map: The Salem Area Comprehensive Plan designates the northern four properties which make up the subject property (*tax lot nos. 073W15AD06000, 6100, 6200, & 6300*) as "Commercial" and the remaining southern five properties which make up the subject property (*tax lot nos. 073W15AD05600, 5700, 5800, 5900, & 6400*) as "Multiple Family Residential."

The Comprehensive Plan designations of surrounding properties include:

<b>Comprehensive Plan Designation of Surrounding Properties</b>	
North	Commercial
South	Across Hickory Street NE, Commercial
East	Across Liberty Street NE, Commercial
	Across Liberty Street NE, Single Family Residential
West	Across Commercial Street NE, Industrial Commercial

Relationship to Urban Service Area: The subject property lies within the City's Urban Service Area. The Urban Service Area is that territory within City where all required public facilities (streets, water, sewer, storm water, and parks) necessary to serve development are already in place or fully committed to be extended. Property located outside the City's Urban Service Area is required to obtain an Urban Growth Preliminary Declaration prior to

development to identify those public facilities identified in the City's public facility plans that are needed to serve the property.

Because the subject property is located inside the Urban Service Area an Urban Growth Preliminary Declaration is not required for further development of the subject property.

**4. Zoning**

The northern four properties which make up the subject property (*tax lot nos. 073W15AD06000, 6100, 6200, & 6300*) are currently zoned CG (General Commercial) and total approximately 1.03 acres in size. The remaining southern five properties which make up the subject property (*tax lot nos. 073W15AD05600, 5700, 5800, 5900, & 6400*) are zoned RM-II (Multiple Family Residential) and total approximately 0.86 acres in size. The zoning of surrounding properties is as follows:

<b>Zoning of Surrounding Properties</b>	
North	CG (General Commercial)
South	Across Hickory Street NE, CG (General Commercial)
East	Across Liberty Street NE, CO (Commercial Office)
	Across Liberty Street NE, RS (Single Family Residential)
West	Across Commercial Street NE, IC (Industrial Commercial)

**5. Existing Conditions**

The subject property consists of nine individual properties totaling approximately 1.89 acres in size and located in the 2400 Block of Commercial Street NE and Liberty Street NE.

The northern CG zoned portion of the property is currently developed with a front office building facing Liberty Street, an attached warehouse, and parking/vehicle use and storage areas surrounding the building on the remainder of the site. The southern RM-II zoned portion of the property is currently largely undeveloped except for a driveway on the south side of the existing building and storage containers adjacent to Commercial Street.

In regard to the natural features of the site, the topography of the property is flat, there are existing trees on the property, and there are no mapped wetlands or waterways present.

The subject property has frontage on Commercial Street NE, Liberty Street NE, and Hickory Street NE. The portion of Commercial Street abutting the subject property is designated as a Parkway under the City's Transportation System Plan (TSP). Liberty Street is designated as a Major Arterial and Hickory Street is designated as a local street. Each of the existing properties has frontage on a street with the exception of the property located at 2496 Commercial Street NE (*tax lot no. 073W15AD06200*), which is a land locked parcel located behind the property at 2498 Commercial Street NE (*tax lot no. 073W15AD06100*).

Vehicular access to the property is currently provided by two existing driveways onto Liberty Street NE. One of the driveways is located perpendicular to the vehicle entrance into the warehouse portion of the existing building and the other driveway is located to the south of the office portion of the building.

## **6. City Department Comments**

- A. The Building and Safety Division reviewed the proposal and indicated no comments.
- B. The Salem Fire Department reviewed the proposal and indicated they have no concerns with the proposed comprehensive plan map amendment, neighborhood plan map amendment, and zone change. The Fire Department indicates that items relating to any future development of the property including, but not limited to, fire department access and water supply will be addressed at time of building permit plan review.
- C. The Public Works Department reviewed the proposal and provided comments that are included in their memo dated July 28, 2020.

## **7. Public Agency & Private Service Provider Comments**

Notice of the proposal was provided to public agencies and to public & private service providers. No comments were received.

## **8. Neighborhood Association and Public Comments**

The subject property is located within the Highland neighborhood association.

Required Open House/Neighborhood Meeting. Prior to application submittal, SRC 300.320 requires the applicant for a proposed minor amendment to the City's comprehensive plan map to either arrange and attend an open house or present their proposal at a regularly scheduled meeting of the neighborhood association the property is located within. On March 12, 2020, the applicant and their representatives attended a regularly scheduled meeting of the Highland Neighborhood Association to present their proposal.

Subsequent to application submittal notice of the application was provided to the Highland neighborhood association pursuant to SRC 300.620(b)(2)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property.

No comments were received from the neighborhood association prior to the August 4, 2020, Planning Commission public hearing. Subsequent to the August 4, 2020, Planning Commission public hearing, during the seven-day open record period, comments were received, however, from the neighborhood association indicating support for the proposal.

In addition to providing notice to the neighborhood association, notice was also provided, pursuant to SRC 300.620(b)(2)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property.

No public comments were received prior to the August 4, 2020, Planning Commission public hearing. However, during the subsequent open record period one comment was received from the City's Traffic Signal Maintenance Supervisor expressing support for the proposal.

**FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR COMPREHENSIVE PLAN MAP AMENDMENT AND NEIGHBORHOOD PLAN MAP AMENDMENT**

**9. Minor Comprehensive Plan Map Amendment & Minor Neighborhood Plan Map Amendment Approval Criteria**

Salem Revised Code (SRC) 64.025(e)(2) establishes the approval criteria for Minor Comprehensive Plan Map amendments and neighborhood plan map amendments. In order to approve a minor comprehensive plan map amendment and neighborhood plan map amendment, the Review Authority must make findings of fact based on evidence provided by the applicant that demonstrates satisfaction of all of the applicable criteria. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposal's conformance with the criteria. Lack of compliance with the following criteria is grounds for denial of the comprehensive plan map amendment and neighborhood plan map amendment.

***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.*

The written statement provided by the applicant indicates, in summary, that the Community Service Government (CSG) comprehensive plan designation is better suited for the subject property than the Commercial (C) and Multiple Family Residential (MFR) designations. The applicant indicates that the CSG designation “includes sites and facilities for uses such as health and medicine, religion, education, culture, government, including cemeteries, airports, and waste disposal.” The proposed use will be a government use.

The location of the subject property as well as the surrounding uses makes it well-suited for the CSG designation. The subject property is partially developed with a government maintenance use, and the property directly south and west of the site are vehicle storage and maintenance uses, similar to the ODOT traffic signal maintenance shop. The subject property is located in an industrial and commercial area in Salem. Only one adjacent property (located diagonally across Liberty and Hickory Streets) is zoned for residential (RS) purposes.

**Finding:** The proposed comprehensive plan map and neighborhood plan amendment do not satisfy the approval criteria contained under SRC 64.025(e)(2)(A) because they are not justified based on either an alteration in circumstances, an equally or better suited designation, or a conflict between a comprehensive plan map designation and a zone designation.

The properties subject to the proposed comprehensive plan map and neighborhood plan map amendment request, as well as other properties to the north and south of the subject property located between Commercial Street NE and Liberty Street NE, have retained their respective "Commercial" Salem Area Comprehensive plan designation and corresponding "Commercial" / "Community Shopping" Highland Neighborhood Plan map designation dating back to at least the late 1970s and the 1980s based on past zoning maps found by staff and the adopted Highland Neighborhood Plan general land use map included in the neighborhood plan. The only change that has occurred since that time to the comp. plan and neighborhood plan map designations of the properties in this area between Commercial Street and Liberty Street was a City-initiated comprehensive plan map amendment to "Multiple Family Residential" and zone change to RM-II for the five properties which make up the southern half of the subject property as part. These changes were made as part of the citywide *Salem Multiple Family Residential Lands Study (SMFRLS)* project in the 1990s. The SMFRLS project was required based on a periodic review order from the State requiring the City to identify and designate additional multiple family land within the City and the urban growth boundary (UGB) to meet identified short-term and long-term housing needs under Statewide Planning Goal 10 (Housing). As part of the project, various properties throughout the City and UGB were reviewed for their suitability to be re-designated for multiple family and a series of legislative comprehensive plan map amendments and zone

changes were ultimately initiated and approved (under Ordinance No. 92-98). Other than the land use designation changes approved through the SMRFLS, the land use pattern in the surrounding area has remained generally constant and no significant social, economic, or demographic changes have occurred in the nearby vicinity that make the existing designations no longer appropriate. As such, there has not been an alteration in circumstances to warrant a change to the existing comprehensive plan map and neighborhood plan map designations.

Similarly, there is also not a conflict between the comprehensive plan map designations of the property and its zoning that warrant a change to the existing comprehensive plan map designations for the property. The northern portion of the subject property is designated "Commercial" on the comp. plan map and is correspondingly zoned CG (General Commercial). The CG zone is a zoning district that implements the "Commercial" comp. plan designation. There is therefore no conflict between the northern portion of the property's comp. plan designation and zoning. The southern portion of the property is designated "Multiple Family Residential" on the comp. plan map and is correspondingly zoned RM-II (Multiple Family Residential). The RM-II zone is a zoning district that implements the "Multiple Family Residential" comp. plan designation. There is therefore no conflict between the southern portion of the property's comp. plan designation and zoning.

The proposed "Community Service Government" comprehensive plan designation for the property is also not equally or better suited for the site than its existing "Commercial" and "Multiple Family Residential" designations.

The applicant indicates that the "Community Service Government" comprehensive plan designation is better suited for the property than its existing commercial and multiple family designations principally because the Community Service Government designation is suitable for sites and facilities used for public and governmental uses and that ODOT's use of the property for their traffic signal maintenance shop is similar to vehicle storage and maintenance uses to the south and west of the site. The applicant also indicates that the property is located in an industrial and commercial area in Salem and only one adjacent property located to the southeast across Liberty and Hickory Streets is zoned for residential purposes.

Notwithstanding the analysis included in the applicant's written statement, the "Community Service Government" comprehensive plan designation is not better suited for the property than its existing designations because the proposed "Community Service Government" designation addresses the existing non-conforming use of the property for public/governmental uses, but does not consider whether that use and designation are equally or better suited for the property based on the physical characteristics of the site, its location, and its relationship to the planned and envisioned land use pattern for the property and the surrounding area.

The Highland Neighborhood Plan helps to establish that planned vision and identifies the subject property and surrounding properties located west of Liberty Street as being located

within Subarea D. Page 5 of the neighborhood plan describes the characteristics of Subarea D as follows:

*This area lies on the western edge of the neighborhood. Like Subarea A, this subarea contains a mix of industrial, commercial, and residential uses. The Willamette River forms the extreme western boundary of the neighborhood. The character and composition of land uses in this subarea is strongly influenced by the high-volume, north-south traffic flows on Liberty and Commercial Streets, and to a lesser degree, on Front Street. The subarea can be divided into two distinct sectors. One sector is the corridor lying between Liberty Street and Commercial Streets. The other is the river-influenced area lying to the west of Front Street.*

The land use map of the neighborhood plan (**Attachment H**) further identifies the distinct sector between Liberty and Commercial Streets as being designated as "Community Shopping." The neighborhood plan explains that the intent of the Community Shopping designation is to, "...provide locations for a wide variety of goods and services, including both convenience stores for neighborhood residents and shopping facilities for a market area consisting of several neighborhoods."

The neighborhood plan further goes on to describe the following applicable land use goals and policies applicable to the greater Subarea D. Those include:

- No. 23. Goal: The goal is to provide for the orderly transition of Liberty/Commercial properties to Industrial Commercial, Office, and Multifamily Residential uses.
- No. 24. Policy: New residential structures developed within the Liberty-Commercial corridor should be designed to protect occupants from noise levels which exceed HUD noise criteria.
- No. 25: Policy: As the Liberty-Commercial corridor develops, pedestrian crossings should be established on Liberty street and Commercial Street to permit residential area access to community shopping facilities.

The subject property is located in a corridor of largely commercial designated and zoned land between Commercial Street and Liberty Street, but is also located in a larger surrounding area characterized by a mixture of single family residential, multiple family residential, retail, office, and industrial development. Because of the location of the subject property, and others in the area, between Commercial Street and Liberty Street, the neighborhood plan generally calls for the area to be used to provide for community shopping facilities that will serve the residents of the greater neighborhood with designated pedestrian connections for convenient ease of access. The neighborhood plan also recognizes the potential for residential development in the area and calls for residential development to include sound buffering measures to soften the impact of vehicle noise from Commercial Street and Liberty Street. The existing "Commercial" and "Multiple Family Residential" comprehensive plan designations of the subject property are consistent with the land use pattern envisioned by, and the goals and policies included within, the neighborhood plan.

Because the neighborhood plan does not include any provisions that call for governmental or storage and maintenance facilities in this area that do not provide services for residents in the neighborhood, the proposed "Community Services Government" designation is not equally or better suited for the subject property than the existing designations. Instead, this type of use would be better suited for the "Industrial-Commercial" area identified in the neighborhood plan located between Commercial Street and Front Street which is described as being intended for commercial and limited industrial activities in which the nature of the business requires fabrication, storage, and wholesale or retail trade. This approval criterion is not met.

***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.***

The written statement provided by the applicant indicates, in summary, that the subject property is within the public service boundary for the City and that the subject property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed CSG designation, including transportation, water, sanitary sewer, stormwater, and other facilities. The applicant indicates that the use proposed for the site is intermittent materials storage, which will not require any additional facilities or services. Thus, the property will be served by existing facilities necessary to support the uses allowed by the proposed CSG designation.

**Finding:** As indicated in the July 28, 2020, memo from the Public Works Department, water, sewer, and storm infrastructure are available within the surrounding streets/areas and appear to be adequate to serve the proposed development. Site-specific infrastructure requirements will be addressed at the time of Site Plan Review for any future development on the subject property. This approval criterion is met.

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

The written statement provided by the applicant indicates, in summary, that the property is already within the city's urban growth boundary and is associated with an adjacent, existing urban use. The proposed plan map designation supports the logical urbanized use of the site, as the site is currently part of a government maintenance facility and not expected to have a change in use. The plan designation will allow for any future development or use of the site by ODOT to be a conforming use.

**Finding:** The City's envisioned land use and development patterns are established by the Salem Area Comprehensive Plan (SACP) and all of its components, including, but not limited to, the comprehensive policies plan, the comprehensive plan map, and the goals and policies provisions and general land use maps adopted in neighborhood plans. The comprehensive plan, in-turn, is implemented, in large part, through the Salem Revised Code, the City's official zoning map, and the corresponding use and development requirements

contained with the City's Unified Development Code (UDC). Development consistent with the SACP, the zoning map, and the City's development code ensures the logical urbanization of the land according to the City's adopted vision consistent with this approval criterion. When a proposal seeks to change the comprehensive plan map, neighborhood plan map, and zoning designation of a property it must be evaluated to determine whether the proposed change continues to provide for the logical urbanization of the land.

In the case of the requested comprehensive plan map and neighborhood plan map change to "Community Service Government," the proposal does not provide for the logical urbanization of the land because:

- 1) It proposes to change the comprehensive plan and neighborhood plan map designations of the subject property to the "Community Service Government" designation which would allow the existing non-conforming use of the property to become a permitted conforming use and allow for its expansion onto the undeveloped southern portion of the property, but the "Community Service Government" designation is not consistent with the largely "Commercial" comprehensive plan land use designation pattern shown on the comprehensive plan and neighborhood plan maps for property between Commercial Street and Liberty Street.
- 2) It would result in the loss of nearly an acre of multiple family designated land from the City's existing multiple family land inventory that was specifically re-designated to "Multiple Family Residential" as part of the City's SMFRLS project to designate additional multiple family land throughout the City in order to comply with a State period review order to meet the City's identified multiple family land deficit and comply with statewide planning Goal 10 (Housing).
- 3) It would also result in a situation that if the State were to ever decided to relocate the existing traffic signal facility shop to another location and surplus the land, its comprehensive plan and neighborhood plan map designation would likely need to be changed back from the "Community Service Government" designation in order to allow for the property to be privately developed consistent with the uses identified for the property under its existing comprehensive plan and neighborhood plan designations.

The proposed "Community Service Government" designation therefore does not result in the logical urbanization of the land. This approval criterion is not met.

***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.***

**Finding:** Analysis of the proposed comprehensive plan map amendment, neighborhood plan map amendment, and zone change for conformance with the applicable Goals and Policies of the Salem Area Comprehensive Plan is as follows:

The written statement provide by the applicant identifies the following Salem Area Comprehensive Plan goals and policies as being applicable to the proposal:

▪ **Economy and Employment (Page 33 of Salem Comprehensive Policies Plan):**

*The City of Salem values its employment lands as it strives to increase the economic prosperity of Salem residents and businesses. These employment lands – including mixed-use, commercial and industrial land – were the focus of the Salem Economic Opportunities Analysis 2015-2035 (EOA) adopted in 2015. The purpose of the EOA was to develop strategies to provide enough land to meet Salem’s future employment land needs, inform policy decisions related to land use, and respond to Keizer’s Economic Opportunities Analysis.*

*The EOA, which is consistent with Statewide Planning Goal 9, found that Salem’s portion of the Salem-Keizer Urban Growth Boundary (UGB) – the Salem Urban Area – has a deficit of 271 acres of commercial land and a surplus of 907 acres of industrial land. It recommended strategies to meet Salem’s employment land needs, including preserving key employment land for traded-sector uses and identifying areas for conversion from industrial to commercial uses.*

▪ **Economic Development Policy H.1 – Economic Diversification (Page 36 of Salem Comprehensive Policies Plan):**

*Diversify the basic economic sector of the Salem urban area through:*

- a. Expansion of existing industrial enterprises and location of new, clean industries.*
- b. Expansion of the light manufacturing.*
- c. Expansion of businesses with an existing presence in Salem or businesses that provide goods and services to existing businesses in Salem.*
- d. Expansion of businesses who want to locate in Salem because of Salem’s competitive advantages and characteristics.*

The written statement provided by the applicant indicates that the existing commercially zoned land is owned and operated by ODOT for a traffic signal maintenance facility. As such, ODOT will continue using the site for its current use, which provides employment for 11 ODOT maintenance workers and supports ODOT operations in both Salem, the surrounding region, and state highways throughout Oregon. Allowing for the comprehensive plan map amendment and rezoning to provide space for storage of ODOT materials will further support the ODOT operations, and bring the site into conformance.

**Finding:** While the existing Governmental Maintenance Services and Construction use of the property is classified as a broader Public Service use under SRC 400.005, Table 400-1, rather than an industrial use, the use still does serve a source of employment as indicated by the applicant. The proposed comprehensive plan map amendment, neighborhood plan map amendment, and zone change would allow for the existing traffic signal shop facility to become a conforming permitted use on the property and allow for the use to be further expanded onto the undeveloped southern portion of the property.

However, expansion of the existing facility under the proposed comprehensive plan and zoning designations, as identified elsewhere in this report, is not consistent with the majority of the applicable goals and policies of the comprehensive plan and neighborhood plan.

▪ **Industrial Development Policy I.5 – Public Facilities, Services, and Utilities (Page 38 of the Salem Comprehensive Policies Plan):**

*Appropriate public facilities, services, and utilities are essential for industrial development. The industrial areas currently serviced by public facilities, services, and utilities provide the best opportunity to maximize past and future public investments in infrastructure. Systems expansion to promote infill development and redevelopment of the currently serviced areas shall be given priority for public funding of facilities, services, and utilities.*

The written statement provided by the applicant indicates that the property is currently within the Urban Services Boundary for the City; therefore, it is capable of being served with public facilities and services, should a future use need them. The site will continue its existing use as the ODOT maintenance facility, and not need any additional public services other than the existing facilities. As it stands, the ODOT maintenance facility allows ODOT to continue to provide support for transportation facilities to the public.

**Finding:** Industrial Development Policy I.5 applies principally to development of industrial land and industrial development within the City. The existing use of the property is broadly classified as a Public Service use under SRC 400.005, Table 400-1, rather than an industrial use and the requested comprehensive plan and zoning designations for the property are public rather than industrial. This comprehensive plan policy is therefore generally not applicable to the proposal. However, as indicated in the memo from the Public Works Department, the subject property is currently served by public facilities sufficient to support the existing and any future development of the property under the applicant's requested "Community Service Government" comprehensive plan designation and PS (Public Service) zoning for the property.

▪ **Residential Development Policy E.1 – Establishing Residential Uses (Pages 30-31 of Salem Comprehensive Policies Plan):**

*The location and density of residential uses shall be determined after consideration of the following factors;*

- a. The type and distribution of housing units required to meet expected population growth within the Salem urban growth boundary.*
- b. The capacity of land resources given slope, elevation, wetlands, flood plains, geologic hazards and soil characteristics.*
- c. The capacity of public facilities, utilities and services. Public facilities, utilities and services include, but are not limited to municipal services such as water, sanitary and storm sewer, fire, police protection and transportation facilities.*

- d. *Proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.*
- e. *The character of existing neighborhoods based on height, bulk and scale of existing and proposed development in the neighborhood.*
- f. *Policies contained in facility plans, urban renewal plans, residential infill studies and neighborhood and specific development plans.*
- g. *The density goal of General Development Policy 7.*

The written statement provided by the applicant indicates, in summary, that the existing multifamily zoning applied on the site was excluded from potential residential development in the Housing Needs Analysis (2015 – 2035), since “they are not intended to convert to residential use during the planning period.” The site was zoned multifamily as part of a larger Multifamily Residential Study in 1998, but is not adjacent to any residentially zoned properties. As such, per the Housing Needs Analysis, this site is not considered available to meet the demand for the future housing needs for Salem. While Salem is currently at a deficit for housing, it was not expected that this land would ever be developed into housing, and retaining the existing multifamily zoning does not accurately portray the existing potential housing stock for City analysis in the future. As a result, rezoning the site to the PS designation will have no impact on future residential development or densities.

**Finding:** Though the multiple family designated portions of the subject property were identified as "constrained land" under the Salem Housings Needs Analysis 2015 to 2035 due to their public ownership and assumed commitment for public use, those portions of the site are regardless still designated "Multiple Family Residential" on the comprehensive plan map, zoned RM-II (Multiple Family Residential), and part of the City's designated multiple residential land supply. This is especially relevant to this proposal because the multiple family designated portions of the subject property were specifically designated as such as part of a project conducted in response to a State period review order to designate additional multiple family land within the City to reduce the City's projected deficit of multiple family designated land and comply with statewide planning Goal 10 (Housing).

The requested comprehensive plan map amendment and zone change would result in the loss of 0.86 acres of land from City's current multiple family land supply and undo the previous land use designation change for the property approved through the SMFRLS process in order to help further the City's compliance with the State's housing land use goal.

As identified in the City's 2015 to 2035 HNA, the City continues to have a deficit of multiple family designated land. Because the southern portion of the subject property is currently designated "Multiple Family Residential" on the comprehensive plan map, zoned RM-II (Multiple Family Residential), and currently largely undeveloped, this

portion of the site could be relatively easily developed for multiple family residential use if the State were to surplus the properties for private development. In addition, the recently adopted amendments to the City's development code simplifying the standards applicable to multiple family development make development of properties of this size for multi-family easier than would have been the case when the properties were originally designated for multiple family use in the late 1990s.

If the comprehensive plan designation for the southern multiple family designated properties is changed to "Community Service Government" and their zoning correspondingly changed to PS (Public Service), these sites will be removed from the City's multiple family land inventory and multiple family land previously designated in conformance with this comprehensive plan policy will be lost. The proposal is not consistent with this comprehensive plan policy.

- **Residential Development Policy E.8 – Protection of Residential Areas (Page 32 of the Salem Comprehensive Policies Plan):**

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

The written statement provided by the applicant indicates that the proposed change in zoning district and designation is to more accurately portray the existing and proposed uses of the ODOT facility, which is a non-residential, public service use and inconsistent with the existing multi-family zoning designation. Surrounding uses are primarily a combination of industrial and commercial. The only nearby residential zoning and uses are the single-family homes located across both Liberty and Hickory Streets to the southeast. A number of former residential homes both west and south of the site on the west sides of Commercial and Liberty Streets already have been repurposed for commercial and industrial uses, such as auto collision repair and supply. Given the location and character of surrounding uses, the proposed rezoning and new designation of the site will not lead to any changes in the actual use of the ODOT facility and will have little to no impact on nearby residential uses. The lots which are currently zoned MFR-2 are along the Hickory St frontage, which faces an RV Storage area. The use of these rezoned lots for storage of ODOT variable message signs will be congruous with the sites directly surrounding it.

**Finding:** The subject property is located in an area characterized by a mixture of single family, multiple family, retail, office, and light industrial development. Nothing about the existing character of the area and surrounding uses would preclude the development of additional multiple family housing units on the southern portion of the property consistent with its multiple family residential comprehensive plan designation and zoning for the southern.

The written statement provided by the applicant identifies the existing RV storage use across Hickory Street as an example of a congruous use to the proposed expanded storage area for ODOT's variable message signs. The RV storage area across Hickory Street,

however, is zoned CG (General Commercial) and is not an allowed use in the zone. The storage use is also not consistent with the Highland Neighborhood Plan which generally calls for commercial and community shopping uses serving the surrounding neighborhood on those properties located between Commercial Street and Liberty Street; together with a recognition that residential development is also possible. This vision has been achieved with the redevelopment of the CG zoned properties to the north of the subject property which include eating and drinking establishments, retail, and some medical office uses. The neighborhood plan vision is not, however, achieved on the subject property or the RV storage area to the south of the subject property because maintenance/storage uses are not envisioned for this area under the neighborhood plan. These uses are also likewise not allowed under the existing zoning.

Changing the comprehensive plan designation and zoning of the property to preclude residential development where it is currently feasible and to allow for the expansion of an existing currently non-conforming maintenance/storage use which is inconsistent with the neighborhood plan and the current comprehensive plan and neighborhood plan designations of the subject property and the surrounding area will not result in the protection of residential areas from more intensive land use activity in abutting zones. The proposal is not consistent with this comprehensive plan policy.

- **Highland Neighborhood Plan**

The written statement provided by the applicant indicates, in summary, that the Highland Neighborhood has four subareas, with the site of the proposed zone change located in Subarea D – West of Liberty Street. The area is described as “strongly influenced by the high-volume, north-south traffic flows on Liberty and Commercial Streets, and to a lesser degree, on Front Street.”

The applicant explains that no policies within the Highland Neighborhood Plan apply specifically to the site, or the zone change or comprehensive plan designation amendment. The Neighborhood Plan has not been amended since 1984 and was not amended when the subject site was rezoned to MFR in 1998.

**Finding:** As previously identified, the Highland Neighborhood Plan designates the area between Commercial Street and Liberty Street as Commercial / Community Shopping. The intent of the Community Shopping designation is to provide locations for a wide variety of goods and services, including both convenience stores for neighborhood residents and shopping facilities for a market area consisting of several neighborhoods.

The proposed "Community Service Government" comprehensive plan designation and PS (Public Service) zoning is inconsistent with the intended land use pattern identified for this area under the Highland Neighborhood Plan. Under the neighborhood plan, the type of governmental use proposed with the application would be better located in the Industrial-Commercial designated area between Commercial Street and Front Street. The neighborhood plan identifies the Industrial-Commercial area as being intended for commercial and limited industrial activities in which the nature of the business requires fabrication, storage, and wholesale or retail trade.

Analysis of the proposed comprehensive plan map amendment, neighborhood plan map amendment, and zone change for conformance with the applicable Statewide Planning Goals is 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.*

The written statement provided by the applicant indicates that an open house was held at the Highland Neighborhood Association (HNA) on March 12, 2020. The applicant explains that attendees of the meeting expressed support for the rezoning proposal.

**Finding:** In addition to attending a required open house/neighborhood meeting, notice of the proposal was also provided to the Highland Neighborhood Association, surrounding property owners and tenants within the notification area, and posted on the property prior to the hearing. The Planning Commission will hold a public hearing to consider the request. The required open house/neighborhood meeting, public notice, and public hearing process ensure all interested parties are afforded the opportunity to review the application, comment on the proposal, and participate in the decision. These procedures meet the requirements of this Goal for citizen involvement in the land use planning process.

- ***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.*

The written statement provided by the applicant indicates that the City has complied with the Goal 2 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.

**Finding:** As provided by the findings included within the applicant’s written statement, the proposal conforms to this statewide planning goal.

- ***Statewide Planning Goal 3 – Agriculture Lands; Goal 4 – Forest Lands***

**Finding:** The subject property is not identified as agricultural land or forest land, these Statewide Planning Goals are not applicable to this application.

- ***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.*

The written statement provided by the applicant indicates that there are no known scenic, historic, natural, or cultural resources on the affected parcels.

**Finding:** The subject property is not designated as an open space or scenic area and there are no protected natural resources present on the site. The property is, however, located within the City's Historic and Cultural Resources Protection Zone concerning the potential for archaeological resources. In order to comply with Goal 5 any future development of the subject property is required to comply with the applicable provisions of SRC Chapter 230 (Historic Preservation). The proposal conforms to this statewide planning goal.

- **Statewide Planning Goal 6– Air, Water, and Land Resources Quality:** *To maintain and improve the quality of the air, water and land resources of the state.*

**Finding:** The proposal will not have an impact on air, water, or land resources quality. The proposal conforms to this statewide planning goal.

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

The written statement provided by the applicant indicates that there are no other known natural hazards existing on the subject property.

**Finding:** The topography of the subject property is flat and there are no areas of mapped landslide hazard susceptibility located on the subject property. The proposal conforms to this statewide planning goal.

- **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.*

**Finding:** The subject property is not located within an identified open space, natural, or recreation area, and no destination resort is planned for this property. Goal 8 is therefore not applicable to the proposal.

- **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.*

The written statement provided by the applicant indicates, in summary, that as stated in the response to Section 265.005(e)(1)(E), the small portion of the subject property zoned for commercial development is comprised of five tax lots, totaling about 1.03 acres. The property is zoned for General Commercial, which overlooks the fact that the site was government owned and part of an already existing government maintenance facility. Zoning on all adjacent parcels is commercial, except the multifamily residential on the rest of the ODOT-owned lot, which is proposed for a new zone as part of this concurrent application.

The City's most recently adopted 2015 Economic Opportunities Analysis (EOA) indicates that the City faces a deficit of employment land. However, the EOA also assumes that the majority of the subject property does not provide capacity for additional economic development within the planning period, because the site is owned by a public (state) agency and committed to an existing use. It is expected that the site will be used for a public purpose, and is not expected to redevelop for commercial use during the planning period. One small lot (0.16 acres) within the ODOT owned traffic signal maintenance shop was incorrectly included in the EOA, despite being publicly owned and not expected to be redeveloped for commercial use. The subject property is considered "committed" (to other uses) and is not assigned any development potential. The small lot should not have been considered part of potential future development land. As a result, it is not considered as available to help address the City's commercial land deficit; changing its Comprehensive Plan and zoning designations will have no impact on the City's documented commercial land supply or the commercial deficit identified in the EOA. Rezoning the property to a non-commercial use will be consistent with the findings of the EOA and by extension is consistent with Statewide Planning Goal 9.

**Finding:** Though the commercial designated and zoned portions of the subject property were identified as "constrained land" under the Salem Economic Opportunities Analysis 2015 to 2035 due to their public ownership and assumed commitment for public use, those portions of the site are regardless still designated "Commercial" on the comprehensive plan map, zoned CG (General Commercial), and part of the City's designated commercial land supply.

The requested comprehensive plan map amendment and zone change would result in the loss of 1.03 acres of commercially designated land from City's current land supply.

As identified in the City's 2015 to 2035 Economic Opportunities Analysis, the City has an approximately 271 acre deficit of commercial land. Roughly 60 percent of the deficit is for office and commercial services and approximately 40 percent is for retail and retail services.

If the comprehensive plan designation for the northern commercially designated properties is changed to "Community Service Government" and their zoning correspondingly changed to PS (Public Service), these sites will be removed from the City's commercial land inventory. The proposal is not consistent with this statewide planning goal.

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

The written statement provided by the applicant indicates that the portion of the subject property zoned for residential development is comprised of five tax lots, totaling about 0.86 acres. The property was zoned for Multifamily as part of a larger rezoning throughout the City in 1998, which overlooked the fact that the site was government

owned and part of an already existing government maintenance facility. Zoning on all adjacent parcels is nonresidential. Based on a review of City density, setback, parking and other relevant standards, the site theoretically could accommodate approximately seven (7) housing units. The City's most recently adopted 2014 Housing Needs Analysis (HNA) indicates that the City faces a deficit of residential land. However, the HNA and accompanying Buildable Lands Inventory (BLI) also correctly assumed that the subject property was not available to provide capacity for additional residential development within the planning period because the site is owned by a public (state) agency. Because of this, the HNA correctly assumed that the property would be used for a public purpose, and would not be expected to redevelop for residential use during the planning period. The subject property is considered "committed" (to other uses) and was not assigned any residential development capacity in the BLI findings. As a result, it is not considered as available to help address the City's residential land deficit; changing its Comprehensive Plan and zoning designations will have no impact on the City's documented residential land supply or the residential deficit identified in the HNA. Rezoning the property to a non-residential use will be consistent with the findings of the HNA and by extension is consistent with Statewide Planning Goal 10.

**Finding:** Though the multiple family designated portions of the subject property were identified as "constrained land" under the Salem Housings Needs Analysis 2015 to 2035 due to their public ownership and assumed commitment for public use, those portions of the site are regardless still designated "Multiple Family Residential" on the comprehensive plan map, zoned RM-II (Multiple Family Residential), and part of the City's designated multiple residential land supply. This is especially relevant to this proposal because the multiple family designated portions of the subject property were specifically designated as such as part of a project conducted in response to a State period review order to designate additional multiple family land within the City to reduce the City's projected deficit of multiple family designated land and comply with statewide planning Goal 10 (Housing).

The requested comprehensive plan map amendment and zone change would result in the loss of 0.86 acres of land from City's current multiple family land supply and undo the previous land use designation change for the property approved through the SMFRLS process in order to help further the City's compliance with the State's housing land use goal.

As identified in the City's 2015 to 2035 HNA, the City continues to have a deficit of multiple family designated land. Because the southern portion of the subject property is currently designated "Multiple Family Residential" on the comprehensive plan map, zoned RM-II (Multiple Family Residential), and currently largely undeveloped, this portion of the site could be relatively easily developed for multiple family residential use if the State were to surplus the properties for private development. In addition, the recently adopted amendments to the City's development code simplifying the standards applicable to multiple family development would further help to make development of these properties easier than would have been the case when the properties were originally designated for multiple family use in the late 1990s.

If the comprehensive plan designation for the southern multiple family designated properties is changed to "Community Service Government" and their zoning correspondingly changed to PS (Public Service), these sites will be removed from the City's multiple family land inventory and multiple family land previously designated in conformance with this comprehensive plan policy will be lost. The proposal is not consistent with this statewide planning goal.

- ***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:** As indicated in the July 28, 2020, memo from the Public Works Department, water, sewer, and storm infrastructure is currently available within the surrounding streets/areas and appear to be adequate to serve the subject property. The proposal conforms to this statewide planning goal.

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

The written statement provided by the applicant indicates, in summary, that Goal 12 is implemented by the Transportation Planning Rule (TPR). 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 and 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 prepared and submitted a Traffic Impact Analysis which includes a TPR analysis. The analysis was prepared by ODOT staff and the methodology for the analysis was coordinated with City of Salem Transportation Engineering staff.

As stated in the Transportation Memo, the zone change is not expected to actually affect the transportation facilities surrounding the site (the Liberty-Commercial couplet or

surrounding local streets). The proposed use specifically is not expected to generate any additional traffic, as the use will be for additional materials storage for variable message signs for ODOT projects. However, under a worst-case land use scenario, the zone change could allow an eating and drinking establishment to be developed. Development of this use could result in an increase in the number of trips beyond what is allowed under the current zoning designation. Because the zone change could allow a use in the future that could substantially increase trips, ODOT recommends that a trip cap be applied as a condition of approval to ensure that the zone change does not increase trips beyond those allowed under the current zone. Such a trip cap would mitigate for any potential significant effort of the zone change on surrounding transportation facilities.

**Finding:** As indicated by the applicant, a TPR analysis was required in conjunction with the proposal to address the Transportation Planning Rule (OAR 660-012-0060). The TPR analyses submitted by the applicant demonstrate the potential for the proposed new land use designations to have a significant impact on the transportation system and, as such, must mitigate the impacts to avoid further degradation of the performance of the City's transportation facilities. As provided in the July 28, 2020, memo from the Public Works Department, the City's Assistant Traffic Engineer reviewed the applicant's TPR analyses and concurs with their findings with the exception of a few minor errors in the reports that have a minimal impact on the exact number of trips for each zone area and the overall site limitation.

The analyses provided indicate a recommended "trip cap" of 2,355 average daily trips (ADT) for the General Commercial portions of the property and 51 ADT for the Multiple Family Residential portions of the property. In order to comply with the requirements of Goal 12 the Assistant City Traffic Engineer recommends a condition of approval would be needed limiting the maximum cumulative total of average daily trips on the 1.89-acre site to 2,406. The proposal, as recommended to be conditioned, would comply with this statewide planning goal. However, because the proposal does not conform to all of the applicable approval criteria this condition of approval is not necessary.

- ***Statewide Planning Goal 13 – Energy Conservation: To conserve energy.***

**Finding:** Any future additional development of the property will be required to be built to comply with current energy standards. The proposal conforms to this statewide planning goal.

- ***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.***

The written statement provided by the applicant indicates that the proposal does not include land located outside of the UGB or include the extension of services to properties outside the UGB, thus, Goal 14 is not applicable to this application.

**Finding:** As provided by the findings included within the applicant’s written statement, this statewide planning goal is not applicable to the proposal.

- ***Statewide Planning Goal 15 – Willamette Greenway; Goal 16 – Estuarine Resources; Goal 17 – Coastal Shorelands; Goal 18 – Beaches and Dunes; and Goal 19 – Ocean Resources***

**Finding:** The subject property is not located within the Willamette River Greenway or an estuarine or coastal area. These statewide planning goals are therefore not applicable to the proposal.

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

The written statement provided by the applicant indicates, in summary, that the amendment to the site would allow the site existing and ongoing use to be consistent with its designation and zoning. The amendment to the designation and rezoning will provide a clearer picture of the current and future uses of the site, which will allow the City to ensure future planning efforts reflect the actual use. The ODOT Signal Shop serves a public purpose and general public benefit by assembling, storing and repairing traffic signs and signals that are used to maintain traffic mobility and safety for motorists on Oregon’s state highways.

**Finding:** As indicated by the applicant, the ODOT traffic signal facility shop serves an important public purpose and provides a general benefit to the public by ensuring that the signs used to maintain traffic mobility and safety for Oregon motorists are properly assembled, stored, and repaired. The public benefit provided by the use, however, does not exceed the impacts of the proposed change resulting from the loss of commercial and multiple family residential designated land and the inconsistency of the proposed public designation when compared to the development pattern identified by the comprehensive plan and neighborhood plan for the subject property and the surrounding area. The proposal does not meet this approval criterion.

## **FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR QUASI-JUDICIAL ZONE CHANGE**

### **10. Quasi-Judicial Zone Change Approval Criteria**

SRC Chapter 265.005(e) provides the approval criteria for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial zone change, the Review Authority must make findings of fact based on evidence provided by the applicant demonstrating that all the following applicable criteria are met. The extent of the consideration given to the various criteria set forth below depends on the degree of impact of the proposed change. The greater the impact of a proposal on the area, the greater the burden on the applicant to demonstrate the zone change is appropriate. The following subsections are organized with approval criteria shown in ***bold italic***, followed by findings evaluating the proposal’s conformance with the criteria.

Lack of compliance with the following criteria is grounds for denial of the zone change, or for the issuance of certain conditions to ensure the criteria are met.

***SRC 265.005(e)(1)(A): The zone change is justified based on one or more of the following:***

- (i) A mistake in the application of a land use designation to the property;***
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or***
- (iii) A demonstration that the proposed zone change is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.***

**Finding:** The written statement provided by the applicant indicates, in summary, that the zone change proposed is to bring the existing and planned future use of the ODOT facility into conformance, and to make the entire site one zone, which is better suited for the property than the existing zone. Currently, the site is zoned Commercial General and Multifamily Residential, which do not permit government maintenance services and construction. Proposed zoning is Public Service (PS). The southern portion of the site was zoned for Multifamily as part of a larger rezoning throughout the City in 1998, which overlooked the fact that the site was government owned and part of an already existing government maintenance facility. In addition, the current zoning represents application of this designation to an isolated parcel which is almost completed surrounded by non-residential parcels. Development of housing on this site would result in a very small number of units, that could not be developed efficiently and would be surrounded by a combination of industrial and commercial uses.

According to the SRC, “The PS zone generally allows a variety of civic service, social service, health service, and educational service uses, together with a limited variety of other compatible uses.” Per the use classifications in the Salem Revised Code 400.075 (SRC), civic services include government maintenance facilities, and example of which is “Government motor pools; shops facilities; [and] storage yards.”(SRC 400.075(c)). The existing and proposed future use of the site by ODOT is ideally suited to this designation.

The ODOT facility is one large fenced site comprised of multiple lots split-zoned between General Commercial and Multifamily districts, and has been in use since the early 1990s. The Public Service zone is used on other similar sites throughout the City, such as the City of Salem Public Works buildings, the ODOT Materials Lab and District 2 building, and other government offices. Rezoning the subject site to the PS designation would represent a similar and logical approach and would be consistent with the intended purpose of this designation. The proposed zone will allow ODOT to use their site to store variable message signs that

must be modified or repaired at the adjacent signal shop, prior to their use on state facilities in other parts of Oregon.

The physical characteristics of the site are largely industrial, with the site consisting of a combination of paved and gravel land and a large, secure, building comprised of small offices and a larger warehouse for maintenance of ODOT traffic signals and signs. The site currently zoned for multifamily is within the secure fenced perimeter of the ODOT property, but is currently an unpaved gravel area.

The RM-II zoned portion of the site is currently unused, but rezoning the entire site to Public Service would allow ODOT to use the site for its government maintenance use.

The surrounding land uses for the site are a combination of primarily commercial and industrial. Only one nearby property (located diagonally across Liberty and Hickory Streets) is zoned for residential (RS) use. The surrounding uses are varied, with a vehicle maintenance and storage company directly south of the site across Hickory St, a healthcare service office to the east, a commercial area north of the ODOT facility, and a vehicle maintenance and single family homes across Commercial St to the west and southwest.

**Finding:** The proposed zone change is not justified because there hasn't been a mistake in the application of a land use designation to the property; there hasn't been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; and the proposed zone isn't equally or better suited for the property than the existing CG and RM-II zoning.

In this case, the applicant has selected the PS (Public Service) zone as the proposed zone because it allows the Governmental Maintenance Services and Construction use as a permitted use and because it's a public zone used for other similar government facilities such as City of Salem Public Works buildings, the ODOT Materials Lab and District 2 building, and other government offices.

While the proposed PS zone would allow the existing ODOT traffic signal facility shop to become a conforming permitted use in the PS zone and allow for the use to be further expanded onto the undeveloped southern portion of the site, the proposed PS zone does not take into consideration the appropriateness of having an isolated PS zoned property in an area intended for mainly commercial development, with the possibility of some residential, under the Highland Neighborhood Plan and the comprehensive plan.

The subject property is located in a corridor of principally commercial designated and zoned land between Commercial Street and Liberty Street, but is also located in a larger surrounding area characterized by a mixture of single family residential, multiple family residential, retail, office, and industrial development. Because of the location of the subject property between Commercial Street and Liberty Street, the neighborhood plan generally calls for the area to be used to provide for community shopping facilities that will serve the residents of the greater neighborhood with designated pedestrian connections for convenient ease of access. The neighborhood plan also recognizes the potential for residential

development in the area and calls for residential development to include sound buffering measures to soften the impact of vehicle noise from Commercial Street and Liberty Street. The existing CG and RM-II zoning of the property is consistent with the land use pattern envisioned by, and the goals and policies included within, the neighborhood plan. The proposed PS zone and the uses allowed within it are not, however, consistent with the envisioned development pattern. The proposed zone is therefore not equally or better suited for the subject property.

In addition, the PS zone includes minimum lot size and dimension standards that apply to all PS zoned lots in order to ensure there is sufficient land area for the reasonable development of the lots. Pursuant to SRC 544.010(a), table 544-2, lots within the PS zone must be a minimum of 10,000 square feet in size and have a minimum lot width of 50 feet and a minimum lot depth of 80 feet. Review of the existing lots which make up the subject property for conformance with these standards indicates that six of the nine existing lots do not meet the minimum 10,000 square-foot lot size standard and three of the existing nine lots do not meet the minimum required 50-foot lot width and/or the 80-foot minimum required lot depth. The existing lot configuration would therefore need to be reconfigured to meet lot standards before the PS zone designation could be applied to them.

Because the proposed PS zone is not equally or better suited for the property than the existing CG and RM-II zones, the proposed zone change does not conform to this approval criterion.

***SRC 265.005(e)(1)(B): If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.***

The written statement provided by the applicant indicates that the zone change is not City initiated. Therefore, this standard does not apply.

**Finding:** The proposal is an applicant-initiated zone change request rather than a City-initiated request. This approval criterion is therefore not applicable to the proposal.

***SRC 265.005(e)(1)(C): The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.***

**Finding:** The findings addressing comprehensive plan map and neighborhood plan map criterion SRC 64.025(e)(2)(D), included under Section 9 of these facts and findings, address the conformance of the proposal with the applicable provisions of the Salem Area Comprehensive Plan for this consolidated application. As provided in the findings included under Section 9, the proposal does not comply with all of the applicable provisions of the Salem Area Comprehensive Plan. This approval criterion is therefore not met.

***SRC 265.005(e)(1)(D): The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.***

**Finding:** The findings addressing comprehensive plan map and neighborhood plan map criterion SRC 64.025(e)(2)(D), included under Section 9 of these facts and findings, address the conformance of the proposal with the applicable provisions of the Statewide Planning Goals for this consolidated application. As provided in the findings included under Section 9, the proposal does not comply with all of the applicable statewide planning goals. This approval criterion is therefore not met.

**SRC 265.005(e)(1)(E): If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.**

The written statement provided by the applicant indicates that the proposed zone change is not from an industrial, commercial, or employment designation to another designation. Therefore, this standard does not apply.

**Finding:** The proposed zone change from GG (General Commercial) to PS (Public Service) requires a corresponding comprehensive plan change from a commercial designation to a public designation. As such, this approval criterion is applicable to the proposal.

As identified in the City's 2015 to 2035 Economic Opportunities Analysis, the City has an approximately 271-acre deficit of commercial land. Roughly 60 percent of the deficit is for office and commercial services and approximately 40 percent is for retail and retail services.

Though the commercial designated and zoned portions of the subject property were identified as "constrained land" under the Salem Economic Opportunities Analysis 2015 to 2035 due to their public ownership and assumed commitment for public use, those portions of the site are regardless still designated "Commercial" on the comprehensive plan map, zoned CG (General Commercial), and part of the City's designated commercial land supply.

The requested comprehensive plan map amendment and zone change would result in the loss of 1.03 acres of commercially designated land from City's current land supply.

If the comprehensive plan designation for the northern commercially designated properties is changed to "Community Service Government" and their zoning correspondingly changed to PS (Public Service), these sites will be removed from the City's commercial land inventory. The proposal is not consistent with the approval criterion.

**SRC 265.005(e)(1)(F): The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.**

The written statement provided by the applicant indicates, in summary, that as stated in the Transportation Memo, the zone change is not expected to actually affect the transportation facilities surrounding the site (the Liberty-Commercial couplet or surrounding local streets). The proposed use specifically is not expected to generate any additional traffic, as the use will be for additional materials storage for variable message signs for ODOT projects. However, under a worst-case land use scenario, the zone change could allow an eating and drinking establishment to be developed. Development of this use could result in an increase in the number of trips beyond what is allowed under the current zoning designation. Because the zone change could allow a use in the future that could substantially increase trips, ODOT recommends that a trip cap be applied as a condition of approval to ensure that the zone change does not increase trips beyond those allowed under the current zone. Such a trip cap would mitigate for any potential significant effort of the zone change on surrounding transportation facilities.

**Finding:** As indicated by the applicant, a TPR analysis was required in conjunction with the proposal to address the Transportation Planning Rule (OAR 660-012-0060). The TPR analyses submitted by the applicant demonstrate the potential for the proposed new land use designations to have a significant impact on the transportation system and, as such, must mitigate the impacts to avoid further degradation of the performance of the City's transportation facilities. As provided in the July 28, 2020, memo from the Public Works Department, the City's Assistant Traffic Engineer reviewed the applicant's TPR analyses and concurs with their findings with the exception of a few minor errors in the reports that have a minimal impact on the exact number of trips for each zone area and the overall site limitation.

The analyses provided indicate a recommended "trip cap" of 2,355 average daily trips (ADT) for the General Commercial portions of the property and 51 ADT for the Multiple Family Residential portions of the property. In order to comply with the requirements of Goal 12 the Assistant City Traffic Engineer recommends a condition of approval would be needed limiting the maximum cumulative total of average daily trips on the 1.89-acre site to 2,406. The proposal, as recommended to be conditioned, would comply with this approval criterion. However, because the proposal does not conform to all of the applicable approval criteria this condition of approval is not necessary.

**SRC 265.005(e)(1)(G): 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 zone.**

**Finding:** The written statement provided by the applicant indicates that the property is currently within the Urban Services Boundary for the City and already is served by transportation, sewer, water and stormwater drainage facilities; therefore, it is capable of being served with public facilities and services, should a future use need them. However, the site will be used as for materials storage for the ODOT maintenance facility, and is not anticipated to need any additional public services or facilities.

**Finding:** As indicated in the July 28, 2020, memo from the Public Works Department, water, sewer, and storm infrastructure are available within the surrounding streets/areas and appear to be adequate to serve the property and the uses allowed by the proposed. This approval criterion is met.

## **CONCLUSION**

Based on the facts and findings presented herein, the proposed Minor Comprehensive Plan Map Amendment, Minor Neighborhood Plan Map Amendment, and Quasi-Judicial Zone Change do not satisfy all of the applicable criteria required under SRC 64.025(e)(2) and 265.005(e)(1) for approval.