

Legislation Details (With Text)

File #:	22-102	Version:	1
Type:	Public Hearings	Status:	Passed
		In control:	City Council
On agenda:	4/11/2022	Final action:	4/11/2022
Title:	Council Review of the Planning Commission's decision approving a Comprehensive Plan Map Amendment and Zone Change from RA (Residential Agriculture) and NCMU (Neighborhood Center Mixed Use) to RM-II (Multiple Family Residential), for approximately 24.84 acres of the northern portion of a 36.86-acre parcel, located at the 2100 Block of Doaks Ferry Rd NW (Polk County Assessor Map and Tax lot 073W17B / 00400).		
	Ward(s): Ward 8 Councilor(s): Varney Neighborhood(s): West Salem Neighborhood Association Result Area(s): Welcoming and Livable Community		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Vicinity Maps and Site Plan, 2. Planning Commission's Decision for CPC-ZC21-06, 3. West Salem Neighborhood Association Comments, 4. Applicant's Testimony, 5. Public Comment received by 5:00 p.m., 4-6-2022, 6. Public Comments received by 2:00 p.m., 4-11-2022pdf, 7. Additional Public Comments received by 5:00 p.m., 4-11-2022, 8. Appeal Letter from WSNA received by 5:00 p.m., 4-11-2022		

Date	Ver.	Action By	Action	Result
4/11/2022	1	City Council	approved	Pass

TO: Mayor and City Council

THROUGH: Kristin Retherford, Interim City Manager

FROM: Norman Wright, Community Development Director

SUBJECT:

Council Review of the Planning Commission's decision approving a Comprehensive Plan Map Amendment and Zone Change from RA (Residential Agriculture) and NCMU (Neighborhood Center Mixed Use) to RM-II (Multiple Family Residential), for approximately 24.84 acres of the northern portion of a 36.86-acre parcel, located at the 2100 Block of Doaks Ferry Rd NW (Polk County Assessor Map and Tax lot 073W17B / 00400).

Ward(s): Ward 8
Councilor(s): Varney
Neighborhood(s): West Salem Neighborhood Association

Result Area(s): Welcoming and Livable Community

SUMMARY:

On February 18, 2022, the Planning Commission issued a decision approving a request from John Eld of Bonaventure, on behalf of Titan Hill Property LLC, to change 24.84 acres of the subject property from DR (Developing Residential) and a portion of MU (Mixed Use) to MF (Multiple Family Residential) designation, and to change the zoning of subject property from RA (Residential Agriculture) and a portion of NCMU (Neighborhood Center Mixed Use) to RM-II (Multiple Family Residential), subject to conditions of approval. (**Attachment 1**).

At the City Council meeting on February 28, 2022, a motion was passed that City Council call up Case No. CPC-ZC21-06 and conduct a public hearing.

ISSUE:

Shall the City Council affirm, amend, or reverse the Planning Commission's decision for Comprehensive Plan Map Designation and Zone change, Case No. CPC-ZC21-06?

RECOMMENDATION:

Affirm the Planning Commission's decision for Comprehensive Plan Map Designation and Zone Change, Case No. CPC-ZC21-06 and approve the applications.

FACTS AND FINDINGS:

Procedural Findings

1. On July 30, 2021, an application was filed for a Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change John Eld of Bonaventure, on behalf of Titan Hill Property LLC, to change 24.84 acres of the subject property from DR (Developing Residential) and a portion of MU (Mixed Use) to MF (Multiple Family Residential) designation, and to change the zoning of subject property from RA (Residential Agriculture) and a portion of NCMU (Neighborhood Center Mixed Use) to RM-II (Multiple Family Residential).
2. On June 21, 2021, the applicant's representative attended the West Salem Neighborhood Association's (WSNA) meeting, held virtually, to present their proposal, meeting the open house requirements of SRC 300.320.
3. On December 21, 2021, notice was sent pursuant to ORS 197.610 and SRC 300.620(b)(1) to Oregon Department of Land Conservation and Development (DLCD). On December 30, 2021, notice of the consolidated application was provided to surrounding property owners, tenants, and Neighborhood Association, pursuant to Salem Revised Code (SRC) requirements.
4. The consolidated application was deemed complete for processing on November 29, 2021, and a public hearing to consider the application was scheduled for December 21, 2021. Upon

request of the applicant received on December 6, 2021, the public hearing was postponed and was scheduled for January 25, 2021.

5. On January 25, 2022, the Planning Commission held a public hearing for the consolidated applications. The Planning Commission received testimony from staff, the applicant, and the public. The West Salem Neighborhood Association and members of the public requested the Planning Commission hold the record open to address concerns by the public. The Planning Commission closed the hearing and left the record open for the following periods: February 1, 2022 for new testimony, February 8, 2022 for rebuttal testimony and to February 15, 2022 for the applicant's final written rebuttal.
6. On February 15, 2022, the Planning Commission conducted deliberations on the proposal and voted to approve the Minor Comprehensive Plan Map Amendment, Neighborhood Plan Change, and Quasi-Judicial Zone Change.
7. On February 28, 2022, a motion was passed that City Council review the Planning Commission decision pursuant to SRC 300.1060. A hearing was scheduled before the City Council on April 11, 2022.
5. On March 22, 2022, notice of the hearing was sent to the West Salem Neighborhood Association and surrounding property owners and tenants pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on March 28, 2022.
6. The entire case record, including the applicant's submittals (including the Transportation Planning Rule Analysis), all evidence and testimony submitted into the record, and all Staff Reports and Supplemental Reports can be found here:
<https://www.cityofsalem.net/Pages/proposed-comprehensive-plan-and-zone-change-at-the->
7. Pursuant to Oregon Revised Statutes (ORS) 227.128, amendments to an acknowledged Comprehensive Plan are not subject to the 120-day rule. Pursuant to ORS 227.178(10), the additional applications have been filed concurrently, are being considered jointly with the proposed comprehensive plan amendment and are not subject to the 120-day rule.

Substantive Findings

1. Planning Commission's Decision

The Planning Commission found that the proposal met all the applicable criteria for the proposed change. The Planning Commission approved the application with the following condition in place:

Condition 1: The transportation impacts from the 24.84-acre site shall be limited to a maximum 500 multi-family units and a cumulative total of 2,270 average daily vehicle trips.

The Planning Commission found that potential impacts to the transportation system will be mitigated with the condition of approval in place, as listed in the Planning Commission decision (**Attachment 3**). Staff analysis of traffic concerns are found in the Planning

Commission Staff Report dated January 25, 2022, and further analysis addressing concerns raised by the public are within the Planning Commission supplemental Staff Report dated February 15, 2022. The Planning Commission reviewed all the testimony provided and found that the applicant had met the criteria as presented in the Staff Report dated January 25, 2022, and the supplemental staff report dated February 15, 2022.

2. West Salem Neighborhood Association Comments

Traffic Concerns:

WSNA and many neighbors sent comments challenging items within the TPR analysis, and the evaluation of “significant effect.”

Staff Response: A Transportation Planning Rule Analysis (TPR Analysis) is required for any change to the City’s Comprehensive Plan Map to demonstrate that the amendment will not have a “significant effect” on existing or planned transportation facilities over the planning period. According to Department of Land Conservation and Development (DLCD), a proposed plan amendment or zone change has a “significant effect” if: (1) it generates more traffic than allowed by existing plan and zoning, AND; (2) planned transportation improvements do not provide adequate capacity to support the allowed land uses.

The evaluation of whether there is a significant effect must consider the range of uses allowed by the proposed plan and zoning changes, not just the particular use proposed by the applicant. This is because the resulting plan amendment or zone change, once approved, would allow any of the uses listed in the zoning district without further review for compliance with the TPR. An applicant or local government can modify or limit the proposed plan or zone change to reduce its traffic generating impacts to help avoid triggering a significant effect. Where the application or approval is limited to specific uses or a particular level of traffic generation, it is possible to limit the scope of the analysis, and by imposing a cap on the number of trips generated by the proposal to match the level of traffic that could be generated under its current plan designation and zoning, there will be no significant effect caused by the proposed development.

The applicant’s analysis indicates that the requested comprehensive plan change, neighborhood plan change, and zone change will not have a significant affect on the existing transportation system beyond what the current land use designations would allow. The applicant’s analysis compared the assumed “reasonable worst-case” scenario under the proposed zoning (RS) to the maximum development that could occur under the proposed zoning (RM-2). As shown in Table 4 in the applicant’s analysis, under the existing zoning, the site could generate 1,726 average daily traffic (ADT) at full build-out. Under the proposed zoning, the site could generate 2,906 ADT which is an increase of 1,180 ADT.

One of the options to ensure there is not a “significant affect” is to apply a trip cap, limiting trip-generating development to the same level as the current plan designation and zoning, or to a level that will not degrade the performance of the intersections. This provides the simplest mechanism to avoid a significant affect and extensive off-site mitigation.

The applicant is proposing to limit the site to 500 multi-family units. This will limit the traffic to 2,270 ADT, with a net increase of 544 ADT. The analysis shows the proposed increase in

traffic does not result in a significant affect on the City managed facilities nor on the State managed facilities. The proposal complies with the Oregon Highway Plan Action 1F.5 because both the net increase is less than 1,000 ADT and the operational standard at the intersections does not increase more than 0.03.

The City Traffic Engineer and Oregon Department of Transportation (ODOT) have concurred with the applicant's TPR analysis of no significant effect. Future development of the site would also be subject to a Traffic Impact Analysis (TIA), at which time specific transportation system improvements may be required to address specific issues related to site layout, access, and circulation.

Trip Cap Amendment:

WSNA submitted comments indicating concerns for an increase in traffic to the surrounding roads, and a suggested trip cap of 1,000 vehicle trips in lieu of the recommended 2,270 vehicle trips under Condition 1.

Staff Response: The determination of significant impact on a transportation facility is based upon a comparison of potential trip generation from uses allowed under the current designations and uses allowed under the proposed designations; it is not based upon a comparison of trips generated from the current use - undeveloped land - to trips generated from potential uses under the proposed designations. The applicant is not required to identify proposed land uses or provide a development plan for this type of application for land use designations, and the City is not required to impose conditions that will mitigate any potential effect development may have on transportation facilities. The finding in the original staff report discusses the requirement and staff analysis:

“The applicant submitted a Transportation Planning Rule (TPR) Analysis in consideration of the requirements of the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis is required to demonstrate that the proposed Comprehensive Plan Change and Zone Change will not have a significant effect on the transportation system as defined by OAR 660-012-0060. The Assistant City Traffic Engineer has reviewed the proposed Comprehensive Plan Change and Zone Change and concurs with the applicant's conclusion that it complies with OAR 660-012-0060 and does not cause a “significant effect” to the City's transportation system. The submitted TPR analysis proposes a trip cap equal to 500 multi-family units on the site. The Assistant City Traffic Engineer concurs with the TPR analysis findings and recommends a condition to limit the development on the 24.84-acre site to 2,270 average daily vehicle trips.”

The City Traffic Engineer has provided a response to the proposed trip cap amendment, included in the supplemental staff report dated February 15, 2022. The analysis provided by Transight Consulting shows the 500-unit and 2,270 average daily traffic (ADT) trip cap is not a significant effect pursuant to the Transportation Planning Rule and the Oregon Highway Plan Action 1F.5, and that there is no basis to place a 1,000 vehicles per day trip on this site as the existing RA zoning could generate 1,770 daily trips currently. It should also be noted that the flow chart included in the WSNA comments dated February 1, 2022, refers to 1,000 trips on a state facility, not a city facility. In this case, the only state facility is Wallace Road, and the TPR analysis does not show 1,000 extra trips on Wallace Road. As further explained by the City Traffic Engineer, the TPR analysis provided “shows that in the horizon year of 2035 in the

Salem Transportation System Plan, the intersections within the City's jurisdiction (Doaks Ferry Road NW - Orchard Heights Road NW, and Doaks Ferry Road NW and Glen Creek Road NW) operate below the City's standard for both the existing use and the proposed use with the 500-unit (2,270 ADT) limitation. The suggested 1,000 average daily traffic increase is based upon the Oregon Highway Plan (OHP) Action 1F.5 that indicates if the increase is less than 1,000 ADT then ODOT considers the increase to be 'small' and does not further degrade the system."

As previously stated, the applicant's analysis shows that the existing zoning could generate about 1,770+ trips, and the proposed zoning about 1,100+ more. A trip cap of 1,000 does not seem reasonable considering that would be 770 less trips than they would be expected to generate today under the existing zoning, and there has been no traffic analysis submitted to corroborate that assertion. However, the trip cap of 2,270 trips makes this an enforceable, ongoing requirement for the future development.

3. Other Comments Received from the Surrounding Public

The Planning Commission addressed several comments from citizens and three comments from the West Salem Neighborhood Association (WSNA) which were submitted in opposition throughout the open record periods. Comments raised issues related to incompatibility of the zone change and increased traffic. These comments and Planning Commission responses are included in the Planning Commission's decision (**Attachment 3**).

ALTERNATIVES:

The City Council may affirm, modify, or reverse the decision of the Planning Commission for Comprehensive Plan Map Designation and Zone Change, Case No. CPC-ZC21-06.

- I. **AFFIRM** the decision;
- II. **MODIFY** the decision; or
- III. **REVERSE** the decision.

Jamie Donaldson
Planner II

Attachments:

- 1. Vicinity Maps and Site Plan
- 2. Planning Commission's Decision for Case No. CPC-ZC21-06
- 3. West Salem Neighborhood Association Comments