



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 30, 2016
Jurisdiction: City of Banks
Local file no.: CPA 16-01/ZC 16-01
DLCD file no.: 002-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/28/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 002-16 {24341}

Received: 6/28/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Banks

Local file no.: **CPA 16-01/ZC 16-01**

Date of adoption: June 14, 2016

Date sent: 6/27/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 3/21/16

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No different from what was described in the Notice of Proposed Change.

Local contact (name and title): Jolynn Becker, City Manager

Phone: 503.324.5112

E-mail: jbecker@cityofbanks.org

Street address: 13080 NW Main Street

City: Banks

Zip: 97106

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from Industrial (I)	to Residential (R-5)	8.25 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 2N331CD TL 11400

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from Industrial (I)	to Residential (R-5)	Acres: 8.25
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address): 2N331CD TL 11400

List affected state or federal agencies, local governments and special districts: ODOT, Washington County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

See attached ordinance. For additional information, please review materials sent with the Form 1 Notice.



ORDINANCE No. 2016-06-01

An Ordinance Changing the Comprehensive Plan Designation and Zoning of Certain Property owned by South Banks J.V. from Industrial (I) to Single-Family Residential (R5)

The Banks City Council adopts the following findings:

Whereas, South Banks J.V. a joint venture consisting of Mr. Karl H. Walter and West Hills Development Company, an Oregon corporation, is the owner of certain real property in the City of Banks, consisting of approximately 8.4 acres and commonly known as “Arbor Village Phase 9,” and more particularly described on Exhibit A and shown on Exhibit B, attached hereto and incorporated herein by this reference (the “Property”); and

Whereas, South Banks J.V. submitted an application to change the Comprehensive Plan Map designation and zone of the Property from Industrial (I) to Single-Family Residential (R5) (the “Plan Amendment/Zone Change Application”); and

Whereas, on April 26, 2016 at 6:30 PM the Banks Planning Commission held a duly-noticed public hearing to consider the Plan Amendment/Zone Change Application as well as an application for preliminary subdivision plat approval and a modification to the Arbor Village Planned Unit Development and associated permits; and

Whereas, at its April 26, 2016 hearing the Banks Planning Commission accepted public testimony and comment on all of the land use requests by South Banks J.V. associated with the Property and voted unanimously to approve the preliminary subdivision plat approval and a modification to the Arbor Village Planned Unit Development and associated permits and recommend City Council approval of the Plan Amendment/Zone Change Application; and

Whereas, on June 14, 2016, the City Council held a duly-noticed public hearing to consider the Planning Commission’s recommendation on the Plan Amendment/Zone Change Application, at which hearing the City Council accepted the staff report that included findings of fact and conclusions of law, and after taking public testimony and deliberating, closed the public hearing at the same meeting; and

Whereas, the City Council finds that the Plan Amendment/Zone Change Application satisfies all applicable criteria of the Banks Comprehensive Plan and Zoning Ordinance.

NOW, THEREFORE, based on the foregoing findings, the City of Banks ordains as follows:

1. The Comprehensive Plan Map Designation of the Property is hereby changed from Industrial to Single-Family Residential.

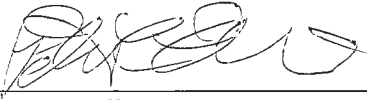
2. The Zone Map Designation of the Property is hereby changed from Industrial (I) to Single-Family Residential (R5).

3. The findings of fact provided in the staff report received at the June 14, 2016 hearing and attached as Exhibit C and incorporated herein by reference are hereby adopted in support of this decision.

Brought before Banks City Council and read for the first time June 14, 2016.

Read for the second time and adopted June 14, 2016.

This Ordinance becomes effective July 14, 2016.



Peter C. Edison, Mayor

Attest:



Angie Lanter, City Recorder

Summary of Votes

Teri Branstitre	Yes/No
Mark Gregg	Yes/No
Brian Biehl	Yes/No
Dan Keller	Yes/No Absent
Mark Walsh	Yes/No
Michael Nelson	Yes/No

CHICAGO 105757209

AFTER RECORDING RETURN TO:
SOUTH BANKS J.V.
c/o West Hills Development Company
14273 NW SCIENCE PARK DRIVE
PORTLAND, OR 97229

Until a change is requested all tax statements shall be sent to the following address:
Same as above

Record No. 3000-44692-LT
Order No. 157209

STATE OF OREGON
County of Washington

I, Jerry R. [Signature], Director of Assessment and Taxation, do hereby certify that the within instrument is a true and correct copy of the original as recorded in the office of said county.

Doc: 97012603
Recd: 180431 2678.00
02/11/1997 01:38:21pm

WARRANTY DEED - STATUTORY FORM
(INDIVIDUAL OR CORPORATION)

PAWA LIMITED PARTNERSHIP, Trustee of the S.B.S. Trust

Grantor, conveys and warrants to SOUTH BANKS J.V., A JOINT VENTURE CONSISTING OF KARL H. WALTER AND WEST HILLS DEVELOPMENT COMPANY, AN OREGON CORPORATION

Grantee, the following described real property free of encumbrances except as specifically set forth herein:

See Attached Legal Description made a part hereto

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and to determine any limits on inlets against farming or forest practices as defined in ORS 30.930.

ENCUMBRANCES:-

1. The premises herein described are within and subject to the statutory powers including the power of assessment of the Unified Sewerage Agency.
(Continued on page 4)

The true consideration for this conveyance is \$2,430,000.00 which is paid to an Accommodator as part of a S1031 Deferred Exchange

Dated February 7, 1997, if a corporate grantor, it has caused its name to be signed by order of its board of directors

PAWA LIMITED PARTNERSHIP, TRUSTEE OF THE S.B.S. TRUST

BY: Chris Liu
CHRIS LIU, GENERAL PARTNER

STATE OF OREGON, County of Washington) ss.
This instrument was acknowledged before me on February 7th 19 97 by Chris Liu
This instrument was acknowledged before me on _____ 19 _____
by _____
of _____

Notary Public for Oregon
My commission expires _____

1-4

WASHINGTON COUNTY
REAL PROPERTY TRANSFER TAX
\$ 2,430.00 02/11/97
FEE PAID DATE

OFFICIAL SEAL
LORETTA J. TURNER
NOTARY PUBLIC-OREGON
COMMISSION NO. 0000000000
MY COMMISSION EXPIRES JULY 24, 1998

Title Data, Inc. FI POW12409 WN 97012603 001

EXHIBIT 5
Page 1 of 4

Order No: 157209

LEGAL DESCRIPTION

A portion of the Southwest and Southeast quarters of Section 31, Township 2 North, Range 3 West, Willamette Meridian, in the County of Washington and State of Oregon, said portion being more particularly described as follows:

Beginning at an iron rod at the intersection of the North right of way line (90.00 feet from centerline) of the Wilson River Highway (State Highway No. 4) and the West right of way line (60 feet from centerline) of the Southern Pacific Railroad, which point bears North 10°05'41" East 796.11 feet from the Washington County Surveyor's Monument at the South quarter corner of said Section 31, and running thence Northerly along said Northerly-right-of-way line 561.89 feet along a 5639.58 foot radius curve to the right line (the long chord of which bears South 85°13'25" West 568.65 feet) to an iron rod; thence South 81°33'11" East 28.00 feet to an iron rod; thence 327.59 feet along a 5653.58 foot radius non-tangent curve to the right (the long chord of which bears North 87°10'17" West 926.00 feet) to an iron rod; thence 197.54 feet along a 70 foot offset to a centerline 400 foot spiral curve (S = 2°00'00" and A = 0.25) (the long chord of which bears North 81°00'20" West 197.54 feet) to an iron rod; thence North 80°29'30" West 420.49 feet to an iron rod at the Southeast corner of that certain tract described in Document No. 84-048003; thence leaving said North right of way line and running North 11°54'10" East, along the East line of said tract, 673.62 feet; thence North 88°11'55" West 527.30 feet to an iron rod at the Southeast corner of the certain tract conveyed in document 85-61187; thence along the boundary of said tract North 83°27'03" West 39.54 feet to an iron rod and North 86°11'06" West 199.94 feet to an iron rod in the East right of way line of Bohannon State Highway; thence along said right of way line North 83°27'33" West 56.93 feet to an iron rod and North 01°48'03" East 247.00 feet to an iron rod; thence South 88°00'05" East 178.26 feet to an iron rod; thence North 81°48'03" East 122.00 feet to an iron rod; thence South 88°13'00" East 479.09 feet to an iron rod; thence North 01°48'03" East 782.99 feet to a point on the North line of the Southwest quarter of said Section 31; thence South 87°26'00" East, along said North line, 543.00 feet to a point on the West right of way line of the Southern Pacific Railroad right of way; thence South 36°23'33" East, along said right of way line, 1594.39 feet to the point of beginning.

Subject to the rights of the public to the 20 foot wide dedicated alley between Blocks 11 and 12, Plat of WILKESBORO.

EXCEPTING THEREFROM that portion thereof described as follows:

A tract of land in the Southwest quarter of Section 31, Township 2 North, Range 3 West, Willamette Meridian, in the County of Washington and State of Oregon, described as follows:

Beginning at the Southeast corner of the Southwest quarter of said Section 31; thence North 81°33'03" East, along the East line of the Southwest quarter of said Section 31, for a distance of 600.29 feet; thence North 88°26'57" West, perpendicular to the East line of the Southwest quarter of said Section 31, for a distance of 540.72 feet to a point on the Northerly right-of-way of the Wilson River Highway, said point being the initial point; thence along the arc of a 5659.58 foot radius non-tangent curve to the right through a central angle of 85°17'07" for an arc distance of 923.07 feet, the long chord which bears North 85°08'04" West, 821.69 feet; thence along the chords of a 70.00 foot offset to a centerline of a 400.00 foot spiral curve (S = 02°00'00" and A = 0.25) for the following courses and distances: Thence North 82°26'19" West, 10.61 feet; thence North 82°04'03" West, 60.51 feet; thence North 81°36'01" West, 60.51 feet; thence North 81°12'34" West, 95.00 feet; thence North 80°56'13" West, 60.50 feet; thence North 80°40'32" West, 60.50 feet; thence North 80°32'20" West, 60.50 feet; thence North 80°29'40" West, 29.24 feet to the end of said spiral curve; thence North 80°29'30" West, along the Northerly right-of-way line of said Wilson River Highway, for a distance of 418.94 feet to the center of a ditch at the Southeast corner of that tract conveyed to Oak Village Shopping Center by Deed recorded as Fee No. 84048003; thence along the center of a ditch the following courses and distances: Thence North 89°38'41" East 68.24 feet; thence North 89°21'49" East, 71.74 feet; thence North 86°00'16" East, 60.94 feet; thence North 11°03'01" East, 96.72 feet; thence North 10°17'10" East, 110.16 feet; thence North 10°37'32" East, 105.11 feet; thence North 10°11'16" East, 86.20 feet; thence North 89°29'26" East, 72.31 feet; thence leaving said ditch thence North 80°40'07" East, 160.50 feet; thence South 19°10'07" West, 19.20 feet; thence South 81°09'20" East, 90.47 feet; thence North 10°10'07" East, 97.26 feet; thence South 84°59'42" East, 52.63 feet; thence South 19°10'57" West, 100.64 feet; thence South 81°09'20" East, 91.48 feet; thence North 19°10'57" East, 10.58 feet; thence South 81°09'20" East, 357.74 feet; thence South 84°49'21" East, 19.89 feet; thence South 86°10'32" West, 30.09 feet; thence South 84°49'21" East, 126.04 feet; thence South 86°10'32" West, 194.22 feet; thence South 84°49'21" East, 69.30 feet; thence South 86°10'32" West, 90.03 feet; thence South 84°49'21" East, 44.39 feet; thence South 86°10'32" West, 126.00 feet; thence South 84°49'21" East, 178.26 feet; thence South 89°42'31" West, 232.22 feet to the Northerly right-of-way line of the Wilson River Highway and the initial point.

AND FURTHER EXCEPTING THEREFROM that portion Deeded to the Construction, a Washington

-2- 2

Partnership by Deed recorded August 28, 1996 as Recorder's Fee No. 96077281, Washington County Records described as follows:

A tract of land in the Southwest quarter of Section 31, Township 2 North, Range 3 West, Willamette Meridian, in the County of Washington and State of Oregon, described as follows:

Beginning at the Southeast corner of the Southwest quarter of said Section 31; thence North 81°33'03" East, along the East line of the Southwest quarter of said Section 31, for a distance of 600.29 feet; thence North 88°24'37" West, perpendicular to the East line of the Southwest quarter of said Section 31, for a distance of 580.72 feet to a point on the Northerly right of way of the Wilson River Highway; thence North 90°42'31" West 232.22 feet; thence North 84°49'22" West 138.24 feet; thence North 85°10'39" East, 136.00 feet; thence North 84°49'31" West, 44.39 feet; thence North 06°18'33" East, 90.03 feet; thence North 84°49'21" West, 60.50 feet; thence North 06°18'33" East, 196.22 feet; thence North 84°49'21" West, 236.04 feet; thence North 06°18'33" East, 30.89 feet; thence North 84°49'21" West, 17.92 feet; thence North 81°09'20" West 24.48 feet to the true point of beginning; thence North 81°09'20" West, 209.46 feet; thence North 88°20'49" East, 90.28 feet; thence South 81°09'20" East, 265.46 feet; thence South 88°20'49" West, 90.28 feet to the true point of beginning.

3

-3-

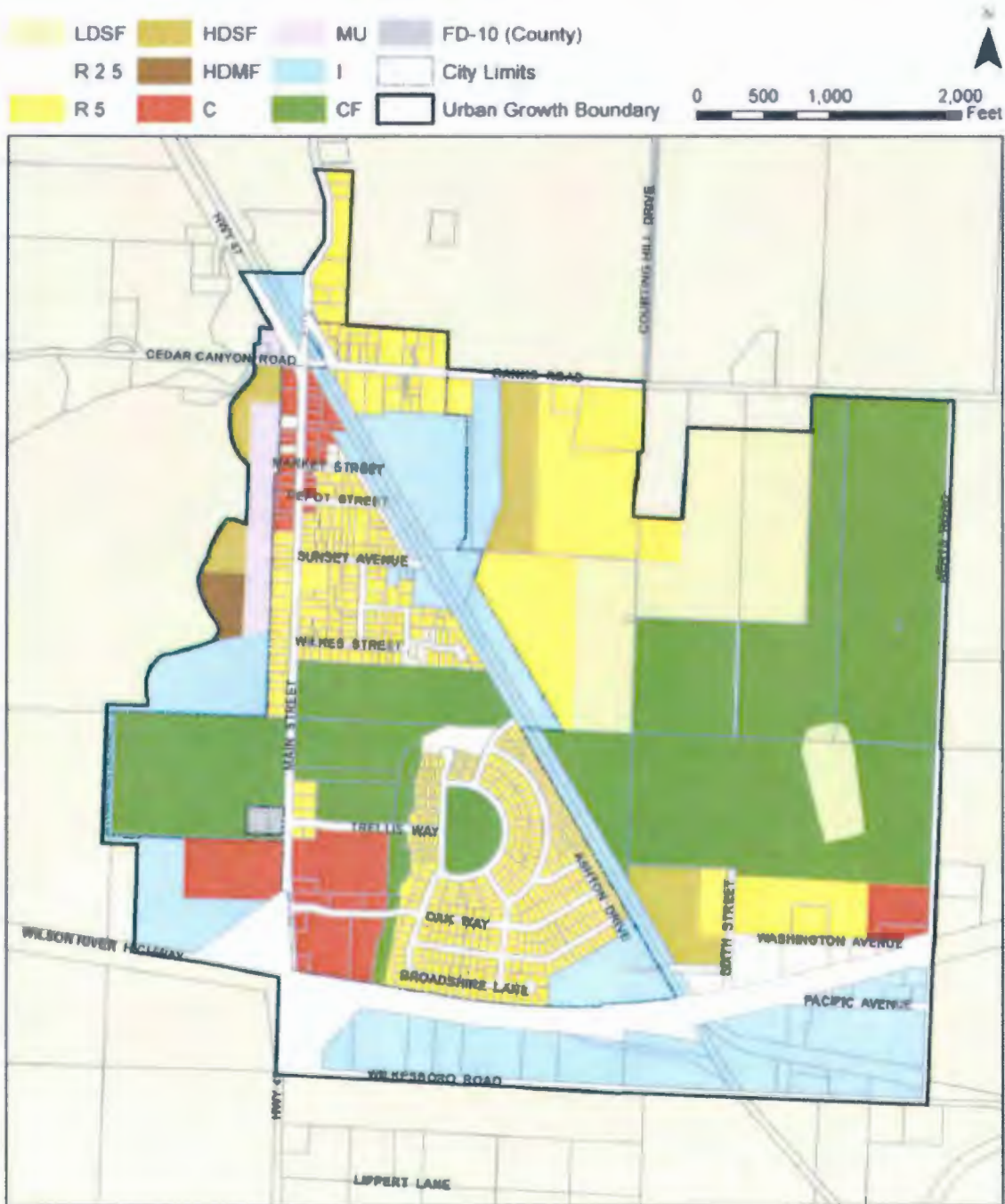
Encumbrances, continued

2. The rights of the public in and to that portion of the premises herein described lying within the limits of dedicated alley.
(Affects the southeasterly portion of Parcel 1)
3. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission, which provides that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
Recorded: December 9, 1983
Book: 376
Page: 363
4. An easement created by instrument, including terms and provisions thereof.
Dated: July 5, 1995
Recorded: August 29, 1995
Recorder's Fee No.: 95060688
In Favor Of: Unified Sewerage Agency of Washington County
For: Storm and surface water drainage and detention
Affects: The southerly portion
5. An easement created by instrument, including terms and provisions thereof.
Dated: July 5, 1995
Recorded: August 29, 1995
Recorder's Fee No.: 95060681
In Favor Of: Unified Sewerage Agency of Washington County
For: Storm drainage
Affects: Along the southerly boundary
6. An easement created by instrument, including terms and provisions thereof.
Dated: July 5, 1995
Recorded: August 29, 1995
Recorder's Fee No.: 95060683
In Favor Of: Unified Sewerage Agency of Washington County
For: Sewer
Affects: Four 15 foot wide strips in the westerly portion near the southerly boundary line

4

-4-

City of Banks Plan Map



08/12/2014

EXHIBIT 6
Page 1 of 1

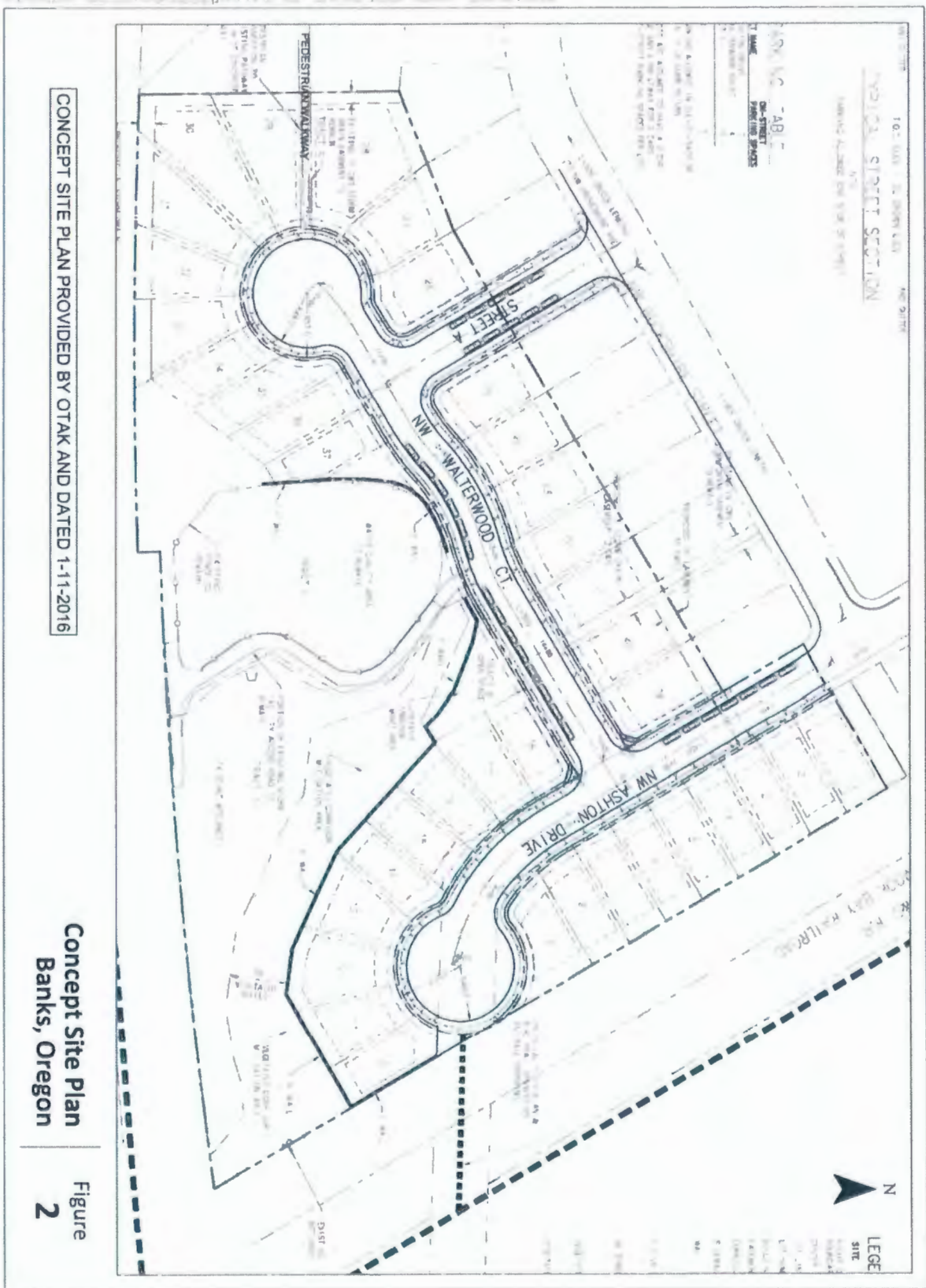


EXHIBIT 4
Page 4 of 186



Council Action & Status Report

Date Submitted: June 6, 2016

Agenda Date Requested: June 14, 2016

To: Banks City Council

Through: Planning Commission

From: Stacey Goldstein
City Planner

Subject: Consideration of File Nos. CPA 16-01, a Comprehensive Plan Map Amendment to change the plan designation of the property from Industrial (I) to Single-Family Residential (R5), and ZC 16-01 a Zoning Map Amendment to change the zoning of the property from Industrial (I) to Single-Family Residential (R5). Applicant is South Banks Joint Venture. Property is Tax Lot 11400, Tax Map 2N3W31CD. The property is located in the undeveloped southeast corner of Arbor Village, south of the intersection of NW Buckshire Street and NW Ashton Drive. The property consists of approximately 8.25 acres.¹

Type of Action Requested:

☐	☐	Resolution	☒	☒	Ordinance
☐	☐	Formal Action	☐	☐	Report Only

Issue:

South Banks Joint Venture ("Applicant") owns the property located at the SE Corner of Banks, known as Arbor Village Phase 9 ("Property"). The Property is the only portion of

¹ Please note that the Arbor Village Phase 9 Concept Plan and Subdivision applications (File Nos. CMP 16-01 and PSA 16-01) are not before the City Council for consideration. The Planning Commission is the decision making body for those applications unless appealed to the City Council. No appeals were filed and therefore are not up for City Council consideration.

Arbor Village that has not been developed. Until recently, the Property was subject to a condition of approval ("Condition 9"), which required the Applicant to construct a secondary access across the Portland and Western and Port of Tillamook Bay railroads. The City approved a modification of the original Arbor Village Planned Unit Development ("PUD") and Plan Amendment/Zone Change, which removed Condition 9 and required the Applicant to submit an application to change the Banks Comprehensive Plan and zoning designation of the Property from Industrial (I) to Single-Family Residential (R5).

The only items before the City Council are the Comprehensive Plan Amendment and Zone Change applications. The Banks Zoning Ordinance ("BZO") 151.171 provides that the Planning Commission review and make a recommendation to the City Council on the proposed Plan Amendment and Zone Change. BZO 151.170-171 provides for the Planning Commission to make a decision on the Concept Master Plan and Preliminary Subdivision, which may be appealed to the City Council. No appeals were filed and therefore the Concept Plan and Subdivision applications are not up for City Council consideration.

BZO 151.202(C) and ORS 227.175(2) allows the City to process these applications concurrently. Approval of the Concept Master Plan and Preliminary Subdivision applications shall be effective upon approval of the proposed Comprehensive Plan/Zone Change applications. The Applicant shall apply for a Detailed Development Plan and Final Plat after approval of the application, which will be heard by the Planning Commission.

Analysis:

The Planning Commission supports its decision to recommend approval by incorporating the April 26, 2016 Staff Report including Findings and Applicant's Submittal, attached to this report.

PLAN AMENDMENT AND ZONE CHANGE

151.157 Comprehensive Plan and Zoning Amendment Criteria

(A) Quasi-judicial comprehensive plan and/or zoning amendment applications shall be approved if the following criteria have been met.

(B) The proposed change is consistent with and supportive of the Comprehensive Plan goals, objectives, and policies.

Finding: The Applicant states that Comprehensive Plan goals implicated by a plan and zone map amendment include Goal 2 - Land Use, Goal 9 - Economics, Goal 10 - Housing, Goal 11 - Public Facilities and Services, and Goal 12 - Transportation. Other goals are not applicable because the City's compliance with those goals is not affected by a re-designation of the Property from industrial to single-family residential. Only objectives and policies that apply to the proposed Plan Amendment/Zone Change are addressed below. Staff concurs with the Applicant statement and finds this section met.

Goal 2 - Land Use.

Objectives:

a. Land uses should be located to take advantage of existing public facility systems and physical features, and to minimize development costs.

Finding: The proposed Development will rely on the existing streets, water, sewer, and utility connections that already serve Arbor Village. This section is met.

b. Land uses should be situated so as to achieve compatibility and to avoid conflicts between adjoining uses.

Finding: The Applicant states that industrial uses for which the Property is currently designated conflict with surrounding residential uses because of the potential for nuisances and because any industrial traffic accessing the Property must utilize the residential local streets in Arbor Village. The proposed R5 plan map and zoning designation will ensure that future uses on the Property are compatible with surrounding residential uses. Staff concurs and finds this section is met.

c. Development should occur in a manner which enhances community identity.

Finding: The Applicant states that Arbor Village is an essential part of Banks' community identity because it includes the majority of residential dwellings within the City. The Proposed Development enhances that identity by providing additional residential development and open space areas that are compatible with the existing homes within Arbor Village. Staff finds this section is met.

d. Opportunities for a variety of land uses should be provided commensurate with population growth and demonstrated need.

Finding: The Applicant states that as explained below in the discussion of Goals 9 and 10, the proposed Plan Amendment/Zone Change does not reduce the City's supply of useable industrial land and helps to satisfy a demonstrated need for additional residential dwellings. Staff concurs and finds this section is met.

Goal 9 - Economics.

Goal: To provide for the economic diversification and stability of the area.

Policies:

4. The City will protect existing and planned industrial and commercial areas from encroachment by incompatible uses.

Finding: The Applicant states that as stated above and explained in more detail below, although the Property is currently zoned for industrial uses, it is not an effective component of the existing industrial land supply. As the proposed Plan Amendment/Zone Change will not reduce City's inventory of industrial land and because it does not propose to locate any incompatible uses adjacent to industrial or commercial lands, it does not violate the above policy. Staff concurs and finds this section is met.

6. The City will encourage economic development and diversification by providing sufficient zoned, buildable, and serviceable land for industrial and commercial uses.

Finding: The Applicant states that the proposed Plan Amendment/Zone Change will not result in a reduction of useable industrial lands in Banks because the City does not consider the Property to be part of its industrial land supply. The City adopted its current Economic Opportunities Analysis ("EOA") in June, 2005. Exhibit 2 Applicant's submittal. The EOA directly addressed the fact that the Property is unsuitable for industrial uses because of onsite wetlands and the large detention pond. The report noted the following:

"The City of Banks conducted an inventory of vacant non-residential land in 2003. This vacant land, however, is not all available for development. According to K.J. Won of the City of Banks, approximately 50% of the 8.5-acre Industrial parcel at the southeast corner of Banks is in wetlands and storm water drainage, and so is not buildable. This area is subtracted from the inventory of vacant acres in Table 4-5 under Constrained Acres." Emphasis added.

The report then went on to address the remaining non-wetland acreage of the Property, and found that it also should be discounted from the City's buildable lands inventory.

"The remaining 4.25 acres of Industrial land at the southeast corner of Banks is surrounded by suburban residential development. Approval of the Arbor Village PUD included a provision that the developer provide a secondary access road to this parcel so that truck traffic would not need to access the property via the residential area. Options for this secondary access road are to create a new road crossing the railroad or a new road under Highway 6 to connect to Wilkesboro Road. Both of these options are problematic, and the location of residential units adjacent to this parcel make it a poor location for industrial development. In addition, the property owner has expressed a desire to change the Industrial zoning on this parcel. In the context of the substantial amount of Industrial land that will be needed to accommodate potential employment growth in Banks, it appears that the City should seek to rezone this property and add Industrial land elsewhere to make up for the loss of this Industrial land." Emphasis added.

A table showing the adjusted supply of buildable industrial land in Banks shows an existing inventory of 0.96 acres of buildable industrial land after the Property and certain other acreage was discounted from the City's buildable lands inventory:

*Banks City Council Report
June 14, 2016*

4

Table 4-5. Supply of buildable land in Banks by zoning, 2005

Zoning	Vacant Acres	Constrained Acres	Adjustments	Net Buildable Acres
Commercial	1.07	0.00	0.00	1.07
Industrial	12.78	-4.25	-7.55	0.98
Community Facilities	0.00	0.00	0.00	0.00
Total	13.83	-4.25	-7.55	2.03

Source: ECD Northwest

Staff concurs with the analysis presented by the Applicant and finds this section is met.

Goal 10 - Housing

Goal: *To increase and improve the supply of housing commensurate with the community's needs.*

Finding: The Applicant states that the proposed Plan Amendment/Zone Change will also be consistent with projected housing need.

The Applicant supplied the evidence in the table below. As demonstrated by the table, taken from the City's 2005 Housing and Residential Land Needs analysis, (Ord. 110.30) there is a need for 880 new dwelling units within the 2000-2024 planning period:

Template 2 Projected Future Housing Status as of 2024						
FA Future Population	FB Future Persons in Group Quarters	FC Future Persons per Household	FD Future Occupied Dwelling Units*	FE Current Total Dwelling Units	FF Dwelling Units Removed	FG New Dwelling Units Needed**
Estimated	Estimated	Estimated	(FA-FB)/FC	CF	Estimated	FD-FE+FF
3,739	9	2.75	1,380	480	10	880

* Number of non-Group Quarter Occupied Dwelling Units

** Exclude Group Quarter Dwelling Units

Staff concurs with the analysis and finds this section is met.

Objectives:

a. The City should evaluate proposals for new housing in terms of the impact of additional numbers of people on the natural environment, community services, utility support systems, and projected housing need.

Banks City Council Report
June 14, 2016

5

Finding: This objective explains how the City is required to evaluate proposals of additional housing. As this is a requirement of the City, not the Proposed Development, it does not apply. Staff has evaluated the proposal for new housing consistent with this objective, throughout this report.

b. Housing should be developed in areas that reinforce and facilitate orderly and compatible community development.

Finding: The Applicant states that the Proposed Development is located in an area dominated by single-family residential development and is therefore compatible with the adjacent land use pattern. Locating additional housing at the Property takes advantage of the existing street system and available utilities to reduce the impact of new residents on public services. Staff finds the location compatible for residential development for the reasons presented here. This section is met.

e. Single family residential areas require settings conducive to the activities and needs of the family and need to be buffered from non-residential areas through landscaping or open spaces.

Finding: The Applicant states that the subject Property is bounded on the south by OR-6, the railroad to the east, and single-family homes to the north and west. The recently annexed land located east of the railroad is designated for single-family residential uses on the Comprehensive Plan map. Exhibit 6. Land zoned for industrial uses located south the Property is screened from the property by the elevated grade of OR-6. Preservation of the wetland area in the southern half of the Property will provide additional buffering from OR-6 and any incompatible uses to the south. Also, the Applicant proposes landscaped buffering in the back yards of lots 1-9 where they abut the railroad. See Sheet P5.1. Thus, the Property will not be located adjacent to any incompatible uses that are not otherwise screened from view and no incompatible uses require a transportation connection through the Property. Staff concurs and finds this section is met.

Policies:

4. Amendments to the comprehensive plan map and zoning map will be consistent with the City's housing needs projections.

Finding: As explained above, the City's adopted Housing and Residential Land Needs analysis calls for 880 new dwelling units by 2024. Exhibit 1. Staff concurs and finds this section met.

6. The City will ensure that adequate, buildable and serviceable land is zoned for all needed housing types.

Finding: The Applicant states that as explained above, the proposed Plan Amendment/Zone Change will help address an identified deficiency of single-family zoned land. Although the City may also need other types of housing, the Applicant is

constrained by conditions of approval of MOD 1-14 and 2-14 that restrict the Property to single-family uses. Exhibit 1. Staff concurs and finds this section is met.

Goal 11 - Public Facilities and Services.

Goal: *To coordinate and arrange for the provision of public facilities and services in an efficient, orderly and timely manner.*

Objectives:

b. New development should occur in areas where public utilities are available before reaching out into areas that are not served.

Finding: The Applicant states that the Property is located within the Banks city limits and is part of Arbor Village, which is already served by streets and utilities. As demonstrated on Sheet P4.0, the proposed Development will connect to existing utilities in Arbor Village through an extension of NW Ashton Drive. The Application encloses memoranda addressing water and sewer capacity which demonstrate that the existing City utility system has adequate capacity to serve the Proposed Development. Exhibits 7 and 8 of the Applicant's submittal. Staff concurs and finds this section is met.

d. Future use of underground utilities is aesthetically desirable and should be encouraged.

Finding: Utilities, including electrical, telephone, and cable lines will be located underground.

e. Development of the City should occur in such a way as to facilitate the provision of police, fire protection, and other services.

Finding: As stated above, police, fire protection, and other city services are already available to serve the Property. As the Property is located within the City Limits, the proposed Plan Amendment/Zone Change will not require an extension of such services outside of their current service areas. Staff reviewed the proposal with the Washington County Sheriff's Department, the Banks Fire Department and the City Public Works Director. All indicated that they have no concerns with the proposal. This section is met.

Goal 12: Transportation

Goal: *To develop and encourage a safe, convenient, and economic transportation system.*

Objectives:

b. Development should occur in such a manner as to encourage and facilitate pedestrian movements.

Finding: The Applicant states that the Proposed Development will include an extension of the existing sidewalk system and sidewalks will be provided along both sides of each new street. This will provide for complete and safe pedestrian access throughout Phase 9. Also, the Proposed Development is located within a 1/2 mile walk of Banks Elementary and a shopping center, allowing Phase 9 residents to walk to such services if they choose. A pedestrian connection is also provided from Walterwood Court and NW Broadshire Street. Staff finds this section is met.

Policies:

1. The City will promote a balanced, safe, and efficient transportation system. In evaluating parts of the system, the City will support proposals which:

Protect the quality of neighborhoods and the community; and

Finding: The Applicant states that the proposed Plan Amendment/Zone Change will protect the quality of the adjacent neighborhood and community by eliminating the likely conflicts between the transportation needs of industrial development and those of adjacent single-family residential development, which would occur if the Property developed for industrial uses. Staff concurs and finds this section met.

Provide for adequate street capacity optimum efficiency and effectiveness.

Finding: The Proposed Development will utilize the existing street system within Arbor Village. As demonstrated by the enclosed TIA (Exhibit 4), that system is adequate to serve the proposed Development. Although the Proposed Development does not include a secondary access across the railroad, it provides a stub street to facilitate such an access if one is ever built. Also, the Applicant will contribute \$20,000 to a transportation study for an east/west connection. Staff and the City's Traffic Engineer reviewed the TIA and find the system adequate to serve the proposed development. This section is met.

8. New land developments will be designed to reduce the percentage of land devoted to streets.

Finding: The Applicant states that the proposed street system extension is designed to efficiently serve the proposed single-family lots. As demonstrated on the enclosed subdivision plans, all land abutting the proposed streets will be used for single-family development, except land reserved to protect wetlands, the detention pond, and public open space. Staff concurs and finds this section is met.

(C) The proposed change is compatible with the surrounding existing and planned land use pattern.

Finding: The Applicant states that the proposed development is for single-family homes. The Comprehensive Plan map indicates that lands to the north, south, and east (across the

railroad) are designated for single-family residential uses. Existing land uses to the north and west are single-family residential.

Although land located across OR-6 is designated for industrial uses, there is no feasible direct access between that area and the Property, and the open space tracts and OR-6 constitute substantial buffers between that area and the Property. Staff concurs and finds this section is met.

(D) Public facilities (i.e. transportation system, water supply, sewer service, storm water disposal, and police and fire protection) are capable of supporting the uses permitted in the proposed zone.

Finding: The Applicant states that the Proposed Development will connect to the existing street and utilities serving Arbor Village at NW Ashton Drive and through a short connection to NW Buckshire Street ("Street A"). These utilities are sufficient to serve the proposed development as explained below.

Streets. The proposed internal street system will be connected to the existing street system via an extension of NW Ashton Drive and a short connection to NW Buckshire Street. Two (2) new local streets are proposed: an extension of NW Ashton Drive and a new east-west street, Walterwood Court. The Banks Transportation System Plan (2010) (the "TSP") does not include any planned collector streets across or connecting to the Property; therefore, the proposed internal streets will be local streets, with a 32-foot wide paved improvement within a 50-foot wide right-of-way.

Water Service. The Application includes a memorandum by a registered civil engineer that addresses water service availability. It concludes as follows:

"The water system modeling supports the assumption that there is sufficient water available to supply the site as a proposed residential land use. A required fire flow of 1,500 gpm can be achieved at a pressure of 76.5 psi. The minimum pressure achieved at any of the buildings at the second story is 65.6 psi, which exceeds the 20 psi minimum."

Sanitary Sewers. The Application includes a memorandum by a registered civil engineer that addresses sewer service capacity. It concludes as follows:

"An 8-inch pipe flowing half-full, which a slope of 0.50%...will provide a flow capacity of 0.43 cfs at 2.45 fps. Using the design criteria from the CWS Master Plan update, the calculated design flow for Arbor Village No. 9 at the connection point to the existing sanitary system is 0.08 cfs. The existing system has adequate capacity to convey this additional proposed sanitary flow."

Exhibit 8 at 1 Applicant's submittal.

Stormwater Drainage. A complete stormwater drainage system is proposed, which will collect stormwater from the proposed internal streets and each lot and discharge the stormwater into the existing stormwater detention pond. The Applicant also proposes a connection to the existing stormwater line at the southwest corner of the site. The Applicant will extend a new drainage line eastward from this connection to discharge into an existing drainage channel, which in turn will outfall into the stormwater detention pond. See Sheet P4.0, Applicant's submittal.

The City Engineer reviewed the proposed public facilities and submitted a memorandum which is attached as Attachment B. The City Engineer states that CWS has final approval of stormwater facilities; the Applicant shall provide a storm drainage report with development submittal. A condition will be added requiring the submittal of a storm drainage report with the final plan. As conditioned, this section can be met.

(E) The proposed change is consistent with the statewide planning goals.

Finding: The City's Comprehensive Plan implements the statewide planning goals and was acknowledged by the Land Conservation and Development Commission. The City's goals expressly mirror the Oregon Statewide Planning Goals in substance and are numbered identically. Comprehensive Plan at 4. Consistency with the applicable goals of the Comprehensive Plan, discussed above under criterion (C) above, is therefore sufficient to demonstrate consistency with the same applicable statewide planning goals. Thus, the Applicant addresses Goal 2 (Land Use Planning, Goal 9 (Economic Development), Goal 10 (Housing), Goal 11 (Public Facilities and Services), and Goal 12 (Transportation) above. Staff concurs with this analysis.

In addition to the goals already addressed above, the proposed Plan Amendment/Zone Change is consistent with the following applicable goals. Goals not addressed below are not applicable because development of the Property does not affect those goals and/or because they apply only to local governments, not to private development proposals.

Goal 1 - Citizen Involvement.

Finding: This Application is subject to the citizen involvement requirements of the BZO and Comprehensive Plan. Specifically, the proposed Plan Amendment/Zone Change is subject to at least two (2) public hearings, one before the Planning Commission and another before the City Council. The City has provided public notice consistent with ORS 197.763. Finally, the Applicant conducted a public meeting to discuss the Application on October 22, 2015, although such a meeting was not required by the BZO. Staff finds this section is met.

Goal 5 - Natural Resources.

Finding: Goal 5 requires the City to designate and protect certain natural resources. Although the City does not identify any protected natural resources on the Property, onsite wetlands are considered protected natural resources under Goal 5. The Applicant

proposes to protect such resources, including the existing stormwater detention pond, by meeting applicable CWS standards. The Applicant has conducted a complete Natural Resources Assessment (“NRA”) which identifies existing wetlands and explains how they will be either protected or mitigated. The Applicant proposes to reserve approximately 34 percent of the Property to protect existing natural resources and does not propose to fill any jurisdictional wetlands. Staff concurs and finds this section is met.

(F) Amendments that affect transportation facilities. Except as provided in division (C), amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Banks Transportation System Plan.

Finding: Pursuant to OAR 660-012-0060, a plan and land use regulation amendment “significantly affects a transportation facility” if it:

- (a) Changes the functional classification of an existing or planned transportation facility;
- (b) Changes the standards implementing a functional classification system;
- (c) Allows levels of development or land uses that would result in “types or levels of travel or access that are inconsistent with the functional classification” of a transportation facility;
- (d) Would reduce the performance standards of the facility below minimally acceptable levels identified in the transportation system plan (TSP); or
- (e) Would “[w]orsen the performance of an existing or planned transportation facility that is otherwise projected to perform below” the identified minimum performance standards.

The Applicant states that because the proposed Plan Amendment/Zone Change does not include a change to the functional classification of an existing or planned transportation system, or propose to change any street standards implementing a functional classification, it does not implicate (a) or (b), above. This Application includes a complete TIA which evaluates the capacity of the street system of Arbor Village to accommodate the Proposed Development. Exhibit 4. The traffic analysis is based on a “reasonable worst case” scenario of 42 dwelling units, the maximum permitted by MOD 1-14 and 2-14. As explained therein, the existing street system is sufficient to accommodate the maximum-permitted 42 additional homes and the Proposed Development will not cause any intersections to drop below minimum levels of service. The TIA also demonstrates that maximum build out of the Property for residential uses will generate fewer trips than it would for industrial uses. For these reasons, the proposed Plan Amendment/Zone Change does not implicate (c)–(e) above, and will not “significantly affect” a transportation facility.

The City's Traffic Engineer DKS and Associates reviewed the TIA. No objections are raised to the Analysis provided by Kittelson and Associates, included in Attachment 1 of the Applicant's submittal.

Staff Conclusion: Staff finds the Applicant met the applicable criteria for a Comprehensive Plan and Zoning Map Amendment.

Options:

1. Approve File Nos. CPA 16-01 a Comprehensive Plan Map Amendment to change the plan designation of the property from Industrial (I) to Single-Family Residential (R5), and ZC 16-01 Zoning Map Amendment to change the zoning of the property from Industrial (I) to Single-Family Residential (R5), adopt the findings in the CPA 16-01 and ZC 16-01 staff report dated April 26, 2016, and adopt Ordinance 2016-06-01.
2. Adopt findings demonstrating that the application does not comply with the Banks Municipal Code and deny the application.

Recommendation: Staff recommends that the Council adopt Ordinance 2016-06-01 as presented and schedule a second reading for the next City Council date.