



Oregon
Theodore R. Kulungoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

12/22/2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Salem Plan Amendment
DLCD File Number 023-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, January 05, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Lisa Anderson Ogilvie, City of Salem
Gloria Gardiner, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner

<paa> YA/l

NOTICE OF ADOPTION

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

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DEPT OF

DEC 15 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: City of Salem

Local File Number: CPC/NPC/ZC 08-15

Date of Adoption: December 2, 2008

Date Mailed: December 12, 2008

Date the Notice of Proposed Amendment was Mailed to DLCD: September 25, 2008

Is this a **REVISED** Proposal previously submitted to DLCD: ☐ YES ☒ NO Date Submitted:

☐ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Changed the Salem Area Comprehensive Plan Map designation from "Parks, Open Space and Outdoor Recreation" to "Commercial", "Multi-Family Residential", and "Single-Family Residential" and changed the zone district from PA (Public Amusement) to CR (Commercial Retail - 4.67 acres), RM1 (Multiple Family Residential - 10.59 acres), and RS (Single Family Residential - 26.77 acres); and amended the Liberty-Boone Neighborhood Plan map from "Parks, Open Space" to "Single Family", Multifamily, and Commercial Retail" for property located at 6161 Commercial Street SE. Approximately 2.27 acres of the site will remain designated "Parks, Open Space and Outdoor Recreation", zoned PA, and maintain its current map designation on the Neighborhood Plan Map.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME." If you did not give notice of the Proposed Amendment, write "N/A." **SAME**

Plan Map changed from: Parks, Open Space and Outdoor Recreation

To: Commercial, Multi-Family Residential and Single Family Residential

Zone Map Changed from: PA (Public Amusement)

To: CR (Commercial Retail), RM1 (Multiple Family Residential) and RS (Single Family Residential)
Acres Involved: 44.27

Location: 6161 Commercial Street SE

Specify Density: Previous:

New:

Applicable Statewide Planning Goals:

Was an Exception Proposed: ☐ YES ☒ NO

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment

Forty-five (45) days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

Affected State of Federal Agencies, Local Governments or Special Districts:

Local Contact: Lisa Anderson-Ogilvie, Associate Planner Phone: (503) 588-6173 Extension: 7581

Address: 555 Liberty Street SE, Room 305

City: Salem Zip: 97301

Fax Number: (503) 588-6005

E-Mail Address: lmanderson@cityofsalem.net

DLCD File No: 023-08 (17157) [15316]

RESOLUTION NO.: PC 08-16

COMPREHENSIVE PLAN CHANGE/NEIGHBORHOOD PLAN CHANGE/ZONE CHANGE 08-15

WHEREAS, a petition for a Comprehensive Plan change from "Parks, Open Space and Outdoor Recreation"

to "Commercial", "Multi-Family Residential", and "Single Family Residential",

concurrent change in the Liberty Boone Neighborhood Plan from "Parks, Open Space"

to "Single Family", "Multifamily", and "Commercial Retail"

and zone change from PA (Public Amusement)

to CR (Commercial Retail), RM1 (Multiple Family Residential) and RS (Single Family Residential)

for property located at 6161 Commercial Street SE

was filed by Terry Kelly and Mary Rentfro

with the Planning Commission of the City of Salem, and

WHEREAS, after due notice, a public hearing on the proposed changes was held before the Planning Commission on December 2, 2008, at which time witnesses were heard and evidence received; and

WHEREAS, the Planning Commission having carefully considered the entire record of this proceeding including the testimony presented at the hearing, after due deliberation and being fully advised; NOW THEREFORE

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

Section 1. FINDINGS:

The Planning Commission hereby adopts as its findings of fact the staff report(s) on this matter dated December 2, 2008, herewith attached and by this reference incorporated herein.

Section 2. ORDER:

Based upon the foregoing findings and conclusions, it is hereby ordered:

(a) The proposed Comprehensive Plan Change in this matter from "Parks, Open Space and Outdoor " to Commercial", "Multi-Family Residential", and "Single Family Residential" be granted;

(b) The Neighborhood Plan covering the above defined area be changed to "Single Family", "Multifamily", and "Commercial Retail";

(c) The zone change from PA (Public Amusement) to CR (Commercial Retail) RM1 (Multiple Family Residential) and RS (Single Family Residential) for the above defined area be granted, subject to the following conditions:

1. As a requirement of any phase of development, the applicant shall be required to provide a Transportation Impact Analysis (TIA) to identify the impacts of this proposed development on the public transportation system in the area, and construct any necessary mitigation measures identified in that report. The City Traffic Engineer will review and approve the TIA for conformance with City standards. Construction plans for the development will not be reviewed without an approved TIA.

2. The applicant shall record in deed records of Marion County, Oregon, the provisions of a restrictive covenant that adopts the terms of this condition by reference, and shall run with the land, subject to the amendment or removal only the City's subsequent amendment or modification of this condition of approval. The property subject to the restrictive covenant shall include the property subject to the Comprehensive Plan and zoning map amendments.

This condition shall limit traffic impacts from future development such that a maximum of 3,669 average daily trips are generated by the proposed use or uses. At the time of development review for any proposed use on the property subject to the restrictive covenant, the proposed development's average daily trips shall be calculated pursuant to the then-current Institute of Transportation Engineers (ITE) Trip Generation manual. No development on the property shall be allowed that causes average daily trips of the property subject to the covenant to exceed 3,669 average daily trips.

3. In the event that the parcels subject to the restrictive covenant develop in phases under separate land use applications, the number of trips approved during development based on the TIA for each phase shall be used to calculate the remaining number of trips available for the succeeding phases under the overall trip cap of 549 net PM peak hour trips.
4. Future uses of the CR (Commercial Retail) portion of the subject property shall be limited to those uses listed in the following table, developed in accordance with applicable zoning district provisions:

<i>Retail Commercial¹</i>
Agriculture and forestry
Veterinary services for animal specialties (SIC 0742)
Construction
Offices for any use listed in SIC Division C – Construction
Printing and Publishing
Commercial Printing (SIC 275)
Transportation, communications, electric, gas, and sanitary services
U.S. Postal Service (SIC 431)
Arrangement of passenger transportation (SIC 472)
Telephone communications (SIC 481)
Telegraph and other communication (SIC 482)
Radio and television broadcasting (SIC 483)
Retail Trade
Lumber and other building materials dealers (SIC 521)
Paint, glass and wallpaper stores (SIC 523)
Hardware stores (SIC 525)
Retail nurseries, lawn and garden supply stores (SIC 526)
General merchandise stores (SIC 53)
Miscellaneous general merchandise stores (SIC 539)
Grocery stores (SIC 541)
Meat and fish (seafood) markets, including freezer provisions (no live animals or slaughtering of live animals permitted on site) (SIC 5421)
Fruit stores and vegetable markets (SIC 543)
Candy, nut, and confectionery store (SIC 544)
Dairy products store (no processing, sales on premises only) (SIC 545)
Retail bakeries (SIC 546)
Miscellaneous food stores (SIC 549)

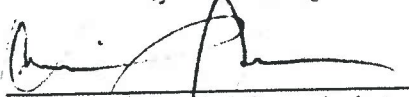
Auto and home supply stores (retail sales only, no service or installation) (SIC 5531)
Apparel and accessory stores (SIC 56)
Furniture, home furnishings, and equipment stores (SIC 57)
Eating and drinking places (SIC 58)
Drug stores and proprietary stores (SIC 591)
Liquor stores (SIC 592)
Miscellaneous shopping goods stores (SIC 594)
Retail stores, not elsewhere classified (SIC 599) including, in addition to uses specifically listed in SIC group 599, electrical and lighting shops, and office machines and equipment stores
Finance, Insurance, and Real Estate
Depository Institutions (SIC 60)
Nondepository credit Institutions (SIC 61)
Security and commodity brokers, dealers, exchanges and services (SIC 62)
Insurance carriers (SIC 63)
Insurance agents, brokers, and service (SIC 64)
Real estate (SIC 65)
Holding, and other investment offices (SIC 67)
Services
Hotels and motels (SIC 701) but excluding casino hotels
Bed and breakfast establishments
Room and board facilities serving five or fewer persons
Personal services (SIC 72) but excluding carpet and upholstery cleaning (SIC 7217) and industrial launderers (SIC 7218)
Advertising (SIC 731)
Consumer credit reporting agencies, mercantile reporting agencies, and adjustment and collection agencies (SIC 732)
Mailing, reproduction, commercial art and photography, and stenographic services (SIC 733)
News syndicates (SIC 7383)
Miscellaneous business services (SIC 738) but excluding research and development laboratories (SIC 8731)
Automobile parking (SIC 752)
Equipment rental and leasing (SIC 7359)
Watch, clock, and jewelry repair (SIC 763)
Repair shops and related services, not elsewhere classified (SIC 7699) but excluding motorcycle repair service
Health services (SIC 80) but excluding hospitals (SIC 806)
Legal services (SIC 81)
Educational services (SIC 82)
Social Services (SIC 83), except homeless shelters serving more than five persons
Membership organizations (SIC 86)
Engineering, Accounting, Research, Management, and Related Services (SIC 87)
Services, not elsewhere classified (SIC 899)
Public Administration
Executive offices (SIC 911)

Executive and legislative combined (SIC 913)
Police protection (SIC 9221) excluding jail facilities
Fire protection (SIC 9224)
Public Finance, taxation, and monetary policy (SIC 93)
Administration of human resources programs (SIC 94)
Administration of environmental quality and housing programs (SIC 95)
Administration of economic programs (SIC 96)
National security and international affairs (SIC 97)
Emergency management administration
Other Uses
Accessory buildings and uses normal and incidental to the uses permitted in this district
Transit stop shelters
On-site response actions in accordance with applicable law to discharges of oil and releases of hazardous substances, pollutants, and contaminants
Special Uses
Gasoline service stations (SIC 554)
Used merchandise store (SIC 593)
Secondary dwellings and guest rooms
Entertainment establishments
Antennas attached to existing or approved structures
Freestanding support structures 35 feet or less in height and equipment enclosures
Temporary motor vehicle sales (SIC 551)
Temporary recreational vehicle sales (SIC 556)
One single family dwelling, other than a manufactured home, per lot
Ambulance Station
Ambulance Service Facility
Administrative Conditional Uses
Freestanding support structures between 36 and 70 feet in height and equipment enclosures

5. Provide for a local street connection through the subject property in a location approved by the Public Works Director in compliance with the *Salem Transportation System Plan*.
6. Access to Commercial Street SE shall be limited to one public street connection, with no direct driveway access, in a location to be approved by the Public Works Director.
7. Dedicate drainage easements adjacent to all creeks within the subject property. The open channel drainage easements shall be, at a minimum, the 100-year floodway, 10 feet from the top of recognized bank, or 15 feet from the centerline, whichever is greatest. These easements shall be approved to the satisfaction of the Public Works Director.
8. Construct the City of Salem *Stormwater Master Plan* improvements as defined within the Battle Creek Basin project list to the satisfaction of the Public Works Director.
9. A 30-foot landscape buffer shall be provided as proposed in the application. The buffer shall contain a public access easement and development of a pedestrian trail that has a minimum width of six (6) feet and at a minimum provides a smooth mulch surface.
10. The perimeter trail/buffer (PA-zoned land) shall be linked to internal and external pedestrian walks and trails.

11. The development shall comply with the other landscaping and irrigation requirements of SRC Chapter 132.

ADOPTED by the Planning Commission this 2nd day of December 2008.



President, Planning Commission

Appeal of a Planning Commission decision is to the Salem City Council (Council), as set forth in Section 114.200 of the Salem Revised Code (SRC). Written notice of an appeal and the applicable fee shall be filed with the Planning Administrator within fifteen days after the record date of the decision. Salem Revised Code 114.210 states that whether or not an appeal is filed, the Council may, by majority vote, initiate review of a Planning Commission decision by resolution filed with the City Recorder. Such a review shall be initiated prior to the adjournment of the first regular Council meeting following Council notification of the Planning Commission decision. Review shall proceed according to SRC Section 114.200.

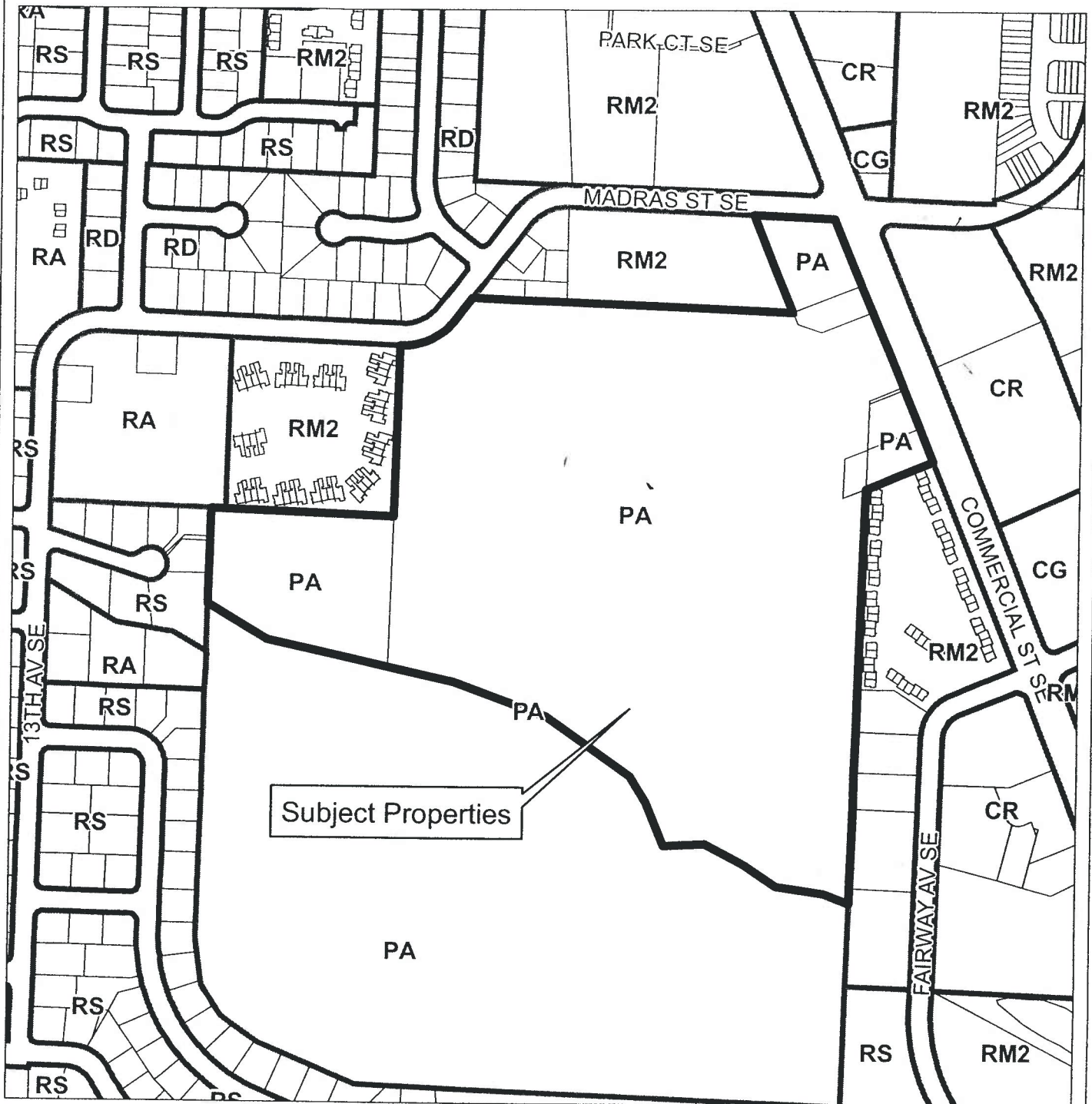
APPEAL PERIOD ENDS: January 29, 2009

Copies of the staff report containing the Facts and Findings adopted by the Planning Commission are available upon request at Room 305, Civic Center, during City business hours, 8:00 a.m. to 5:00 p.m.

Planning Commission Vote:

Yes 7 No 0

Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 08-15



Legend

- Base Zoning
- Urban Growth Boundary
- Outside Salem City Limits
- Taxlots
- Parks
- Schools

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CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

Supplemental Findings for Comprehensive Plan Change/Neighborhood Plan Change/ Zone Change 08-15

Procedural Objections:

An opponent raised objections on procedural error. They cited Salem Revised Code (SRC) 110.240 and stated that this code provision requires the applicant to give thirty days for the application to be rejected and a hearing requested. SRC 110.240 actually provides the Planning Administrator thirty days to review the application for completeness. The opponent misread the code provision as allowing affected parties to receive a thirty day notice of the hearing.

Opponent alleged that they have verified 4 affected parties that did not receive notice. The opponent did not provide staff with the names of these individuals to allow staff to check the certified mailing list. The file contains a certified mailing list of all property owners within 250 feet of the subject property. The record was held open for 7 days to allow additional testimony and 7 more days to allow for rebuttal.

Goal 7:

Opponents raised concerns over the potential for flooding on the subject property. The applicant identified the natural hazards located on the property – the floodway and the 100-year floodplain. There are no identified landslide hazards on the subject property. Goal 7 requires local governments to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program requirements. Salem adopted a mitigation plan in 2003. Goal 7 requires that the floodplain area be mapped and hazard mitigation plans be adopted. The Department of Land Conservation and Development (DLCD) has acknowledged Salem's plan as complying with Goal 7.

Future development of the property will be reviewed for compliance with Salem Revised Code Chapters 68 (Preservation of Trees and Vegetation) as it relates to trees and vegetation in riparian corridors, and 140 (Floodplain Overlay Zone) and will ensure compliance with Goal 7. The applicant will also be required to make necessary improvement to Waln Creek as identified in the Stormwater Master Plan.

Housing Information Submitted by Applicant:

The applicant submitted a copy of the Salem Multiple Family Residential Land Study (SMFRLS) in their rebuttal packet. Opponents have criticized the inclusion of this study citing its date as a reason to disregard the information contained therein. SMFRLS was an extensive effort which determined the supply and demand of RM land and designated selected properties to "Multiple Family Residential" zone. This work was required as part of the Periodic Review Work Program. SMFRLS took into consideration balancing the distribution of the new multiple family land throughout the City with the largest new areas being allocated to parts of the city with the lowest existing amount of multiple family land (West and South Salem). This study is the latest study of RM zoned land within the UGB. It was concluded in 2001.

Opponents argued that a seven year old study could not determine the current need for housing. However, the applicant is not required to demonstrate a need for housing as a demonstrated need is not part of the approval criteria. The opponent's objections do not address the approval criteria for a Comprehensive Plan Change and Zone Change as listed in SRC 64.090 and 114.160, respectively.