



**Oregon**

Theodore R. Kubongski, Governor

**Department of Land Conservation and Development**

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**NOTICE OF ADOPTED AMENDMENT**

7/27/2009

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of Salem Plan Amendment  
DLCD File Number 023-08A & 009-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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:** Friday, August 07, 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/I



Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

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

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**DLCD file No.** 023-08A (17157) [15622]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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City: Salem OR

Zip: 97301-3513

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**BEFORE THE CITY COUNCIL OF THE CITY OF SALEM**

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|---|--|
| <b>IN THE MATTER OF AFFIRMING )<br/>THE DECISION OF THE PLANNING )<br/>COMMISSION IN COMPREHENSIVE )<br/>PLAN CHANGE / NEIGHBORHOOD )<br/>PLAN CHANGE / ZONE CHANGE )<br/>08-15 FOR PROPERTY LOCATED )<br/>AT 6161 COMMERCIAL STREET SE )</b> | <b>ORDER NO. 2009-05-CPC/NC/ZC<br/><br/>CPC/NC/ZC CASE NO. 08-15</b> |
|---|--|

This matter coming regularly for hearing before the City Council at its April 6, 2009 meeting, and the City Council, having received evidence and heard testimony, makes the following findings, and adopts the following order, affirming the decision of the Planning Commission in Comprehensive Plan Change / Neighborhood Plan Change / Zone Change Case No. 08-15.

**FINDINGS:**

- (a) On December 2, 2008, the Planning Commission approved the application for the Comprehensive Plan Change / Neighborhood Plan Change / Zone Change of property located at 6161 Commercial Street SE.
- (b) At the January 5, 2009 City Council meeting, the City Council moved to review the decision of the Planning Commission for Comprehensive Plan Change / Neighborhood Plan Change / Zone Change 08-15.
- (c) On April 6, 2009, the City Council held a hearing, received evidence and heard testimony. The record was held open until May 11, 2009.
- (d) On May 11, 2009, the City Council voted to affirm the Planning Commission's decision.
- (e) The Facts and Findings attached hereto as "Exhibit 1," are incorporated herein by this reference.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF SALEM, OREGON:**

**Section 1.** The Planning Commission's decision approving Comprehensive Plan Change / Neighborhood Plan Change / Zone Change 08-15 is hereby affirmed and amended to include the following conditions of approval:

Condition 12: Any development of the subject property will be subject to a "zero net rise" restriction which will require compensatory flood storage to be provided for any fill placed below the 100-year flood elevation.

Condition 13: Prior to development complete a Letter of Map Revision (LOMR) study and provide the findings to the appropriate city staff for review.

Condition 14: Waln Creek shall be improved by allaying the banks and creating sinuosity.

Condition 15: All parking areas shall be constructed out of pervious material.

**Section 2.** This order constitutes the final land use decision and any appeal hereof must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of this decision is mailed to persons with standing to appeal.

ADOPTED by the Council this 13<sup>th</sup> day of July, 2009.

ATTEST:

City Recorder: Kathryn Hall

Checked by: L. Anderson-Ogilvie  
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**CPC/NPC/ZC 08-15 - Facts and Findings**

- APPLICATION:** Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 08-15
- LOCATION:** 6161 Commercial Street SE (Marion County Assessor's Map Number 083W23B tax lots 100, 101, 200, 300, 400 and Map Number 083W23A and tax lots 900, 1000, 1100)
- SIZE:** Approximately 44.27 acres
- REQUEST:** To change the Salem Area Comprehensive Plan Map designation from "Parks, Open Space and Outdoor Recreation" to "Commercial", "Multi-Family Residential", and "Single-Family Residential" and 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 to amend 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.
- APPLICANT:** Terry Kelly and Mary Rentfro, Applicant  
Stew Stone, Representative
- DECISION:** **APPROVE** subject to the following zone change conditions:
1. As a requirement of any phase of development, the applicant shall provide a Transportation Impact Analysis (TIA) to identify the impacts of the proposed development on the public transportation system in the area, and construct any necessary mitigation measures identified in the TIA. 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 by 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 3,669 average daily trips.
4. Future uses of the CR (Commercial Retail) portion of the subject property shall be limited to those uses explicitly listed in the following table, developed in accordance with applicable zoning district provisions:

| <b>Retail Commercial</b>   |
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| <del>Agriculture and forestry</del>  |
| Veterinary services for animal specialties (SIC 0742)  |
| <del>Construction</del>  |
| Offices for any use listed in SIC Division C – Construction  |
| <del>Printing and Publishing</del>   |
| Commercial Printing (SIC 275)  |
| <del>Transportation, communications, electric, gas, and sanitary services</del>  |
| 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)  |
| <del>Retail Trade</del>  |
| 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)  |

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| 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 |
| <b>Finance, Insurance, and Real Estate</b>   |
| 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)   |
| <b>Services</b>  |
| 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)   |



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| 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                                     |
| Dance halls, studios, and schools (SIC 791)  |
| 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  |
| Museums, art galleries, botanical and zoological gardens (SIC 84)  |
| Membership organizations (SIC 86)  |
| Engineering, Accounting, Research, Management, and Related Services (SIC 87)   |
| Services, not elsewhere classified (SIC 899)   |
| <b>Public Administration</b>   |
| 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  |
| <b>Other Uses</b>  |
| 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 |
| <b>Special Uses</b>  |
| Gasoline service stations (SIC 554)  |
| Used merchandise store (SIC 593)   |
| Secondary dwellings and guest rooms  |
| Entertainment establishments   |
| Antennas attached to existing or approved structures   |

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| 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   |
| Conditional Uses  |
| Crude petroleum and natural gas extraction (SIC 131)  |
| Manufacturing   |
| Jewelry, silverware, and plated ware (SIC 391)  |
| Costume jewelry, costume novelties, buttons, and miscellaneous notions, except precious metals (SIC 396)  |
| Signs and advertising specialties (SIC 3993)  |
| Transportation, communications, electric, gas, and sanitary services  |
| Local and suburban passenger transportation (SIC 411))  |
| Intercity and rural highway passenger transportation within 2,000 feet from the center point of an I-5 interchange and having direct access to a major arterial (SIC 413) |
| Communication services, not elsewhere classified (SC 489)   |
| Electric services (SIC 491)   |
| Gas production and distribution (SIC 492)   |
| Water supply (SIC 494)  |
| Free standing support structures greater than 70 feet in height and equipment enclosures  |
| Retail  |
| Automotive dealers (SIC 55) BUT EXCLUDING gasoline service stations (SIC 554), and auto and home supply stores as permitted under SRC 152.020(e)(14)                      |
| Nonstore retailers (SIC 596)  |
| Services  |
| Camps and recreational vehicle parks (SIC 703)  |
| Carpet and upholstery cleaning (SIC 7217)   |
| Automotive rental and leasing, without drivers (SIC 751)  |

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| Automotive repair shops (SIC 753)  |
| Electrical repair shops (SIC 762)  |
| Reupholstery and furniture repair (SIC 764)  |
| Motorcycle repair service  |
| Professional sports club and promoters (SIC 7941)  |
| Homeless shelters and room and board facilities serving 6 to 75 persons  |
| Unlimited number of dwelling units and guest rooms in apartment houses, court apartments, lodging houses, condominiums, and residential hotels.      |
| Other uses   |
| Utilities – secondary truck parking and material storage yard  |
| Recycling depots   |
| Solid waste transfer stations  |
| Off-site response actions in accordance with applicable law to discharges of oil and releases of hazardous substances, pollutants, and contaminants. |

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.
12. Any development of the subject property will be subject to a "zero net rise" restriction which will require compensatory flood storage to be provided for any fill placed below the 100-year flood elevation.
13. Prior to development, complete a Letter of Map Revision (LOMR) study and provide the findings to the city for review.
14. Wain Creek shall be improved by allaying the banks and creating sinuosity.
15. All parking areas shall be constructed out of pervious material.

#### **APPLICATION PROCESSING**

##### **Subject Application:**

On September 22, 2008, Stew Stone, on behalf of Terry Kelly and Mary Rentfro, filed a Comprehensive Plan Change/Zone Change application. The application was deemed complete on October 20, 2008.

Notice was given in accordance with Section 114.050 to 114.070 of the Salem Revised Code. A public hearing was held before the Planning Commission on November 18, 2008, at which time witnesses were heard and evidence received. On December 2, 2008, the Planning Commission having carefully considered the entire record of the proceeding including the testimony presented at the hearing, after due deliberation and being fully advised unanimously approved the matter with conditions of approval that limited the following: average daily trips to the site; uses allowed in the CR (Commercial Retail) portion of the property; access to Commercial Street SE; and required the following: a local street connection through the property; dedication of drainage easements along the creek; construction of Stormwater Master Plan improvements; and a 30-foot wide buffer along the perimeter of the property which will include a 6-foot wide pedestrian trail.

At the January 5, 2009 City Council meeting, the City Council moved to review the decision of the Planning Commission. On April 6, 2009 the City Council held a hearing, at which time witnesses were heard and evidence received. The record was held open until May 11, 2009. On May 11, 2009, the City Council having carefully considered the entire record of the proceeding including the testimony presented at the hearing, after due deliberation and being fully advised unanimously voted to affirm the Planning Commission's decision with the addition of four additional conditions of approval to be incorporated as follows:

- Condition 12. Any development of the subject property will be subject to a "zero net rise" restriction which will require compensatory flood storage to be provided for any fill placed below the 100-year flood elevation.

Condition 13. Prior to development, complete a Letter of Map Revision (LOMR) study and provide the findings to the city for review.

Condition 14. Waln Creek shall be improved by allaying the banks and creating sinuosity.

Condition 15. All parking areas shall be constructed out of pervious material.

At the proceeding below, 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 City finds that the opponent misread the code provision as allowing affected parties to receive a thirty day notice of the hearing.

Opponent alleged that they had verified 4 affected parties that did not receive notice of prior hearings. 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. During the Planning Commission's proceedings, the record was held open for 7 days to allow additional testimony and 7 more days to allow for rebuttal after the issue was noted. The City finds no procedural errors.

There was testimony at the City Council hearing, and during the Planning Commission hearing below, by applicant's engineer and Salem Public Works staff regarding the feasibility of compensatory flood storage. Pursuant to condition 12 set forth above (the "Zero Net Rise" condition), applicant is obligated to provide compensatory flood storage for any fill placed below the 100-year flood elevation. Testimony notes that applicant had the right to use the City-owned property to the south to account for their compensatory flood storage obligation. In the event the property to the south was not entirely adequate to meet applicant's obligation, applicant's representatives and public works staff testified that stormwater detention would be provided on the subject property in accordance with regulations found in the City's code, or at applicant's property located upstream, commonly known as Creekside Golf Club. Related testimony from Salem Public Works is detailed below under "Existing Site Conditions."

**Appeals:**

The City Council's decision in this matter constitutes the final land use decision and any appeal of the decision must be filed with the Oregon Land Use Board of Appeals within 21 days of the date that notice of the decision is mailed to persons with standing to appeal.

**120-Day Requirement:**

Amendments to an acknowledged comprehensive plan are not subject to the 120-day rule (Oregon Revised Statutes (ORS) 227.178).

**Public Notice:**

1. Notice was mailed to property owners within 250 feet of the subject property on October 30, 2008.
2. The property was posted in accordance with the posting provision outlined in SRC 114.070. The property was posted on November 7, 2008.
3. State law (ORS 197.610) requires the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 45-day notice when an applicant or the City proposes an amendment to an acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation. The City sent notice of this proposal to DLCD on September 25, 2008.
4. Notice was mailed to property owners within 250 feet of the subject property, persons who testified at the hearing below, and other interested parties on March 1, 2009, regarding the appeal hearing by Salem's City Council.

## **BACKGROUND INFORMATION**

### **Summary of Requested Action**

To change the Salem Area Comprehensive Plan Map designation from "Parks, Open Space and Outdoor Recreation" to "Commercial", "Multi-Family Residential", and "Single-Family Residential" and 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 to amend 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.

### **Neighborhood Association**

The subject property is within the South Gateway Neighborhood Association (SGNA). SGNA submitted a letter of support, dated November 16, 2008. SGNA submitted an additional letter dated May 8, 2009, detailing the amount of time dedicated by SGNA to this matter. SGNA representatives spoke in support of the application at the November 18, 2008 Planning Commission hearing and the April 6 City Council meeting.

The subject property is also located within the boundaries of the former Liberty-Boone Neighborhood Association. Although the Neighborhood Association has dissolved there is an adopted Plan Map that includes designations for the subject property. The applicant has addressed the proposed changes to the Liberty-Boone Neighborhood Plan Map, which will be evaluated later in this report.

### **Public Outreach**

Regarding the future development of the site, the Applicant has been actively engaging the surrounding property owners since March, 2007, when the site was first considered for redevelopment. The Applicant sent personal invitations to approximately 99 surrounding property owners on March 31<sup>st</sup>, 2007 and posted a general invitation in the

*Statesman Journal* on April 5<sup>th</sup> of 2007 inviting community members to attend a presentation at Pringle Community Hall on April 11<sup>th</sup>. This presentation provided an overview of the original concept of the project, which encompassed the entire 83-acre site, and afforded neighborhood residents an opportunity to ask questions and share concerns. Additional follow-up meetings were held with Battle Creek Meadows condominium association on April 14<sup>th</sup> and with South Gateway Neighborhood Association on June 14<sup>th</sup> of 2007.

The Applicant continued to engage surrounding property owners after the initial application was withdrawn. Applicant's representatives met with the Battle Creek Duplexes on May 5, 2008 and then with the South Gateway Neighborhood Association on May 19, June 12, July 17, July 23, July 24, August 18, and September 11, 2008. Applicant's representatives also had additional follow-up meetings in May with Greenside Village, Battle Creek Village, Fairway Houses, and the Battle Creek Lodges Apartments. Finally, Applicant's representatives met with Battle Creek Commons multiple times, most recently on May 20, July 23, and September 9, 2008 to discuss the development proposal.

#### **Public Comments**

Public comments have been included as part of the record.

#### **City Department Comments**

**Public Works (City Engineer)** - The City Traffic Engineer reviewed the Transportation Planning Rule Analysis (TPR) submitted by the applicant dated August 1, 2008. The City Traffic Engineer expressed concerns over the applicant use of Softball fields in Lodi, California for analysis. The applicant submitted a revised TPR, dated November 4, 2008, to address these concerns. The City Traffic Engineer concurs with the applicant revised TPR and commented that a Transportation Impact Analysis (TIA) will be required. 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.

**Community Development (Building and Safety)** - Reviewed the proposal and indicated they have no comments.

#### **Public and State Agency Comments**

**Salem-Keizer Transit** - Reviewed the proposal and stated that the proposed development would generate a high volume of trips on Cherriots buses and Cherrylift vehicles. Street improvements should accommodate fixed route buses. Internal access streets should be designed to accommodate dial-a-ride vehicles. In addition, pedestrian amenities throughout the entire development should be designed to allow for ADA access to bus stops and shelters, and to provide space for shelter pavement.

The area is currently served by bus service via Route 1 with stops on Commercial Street SE, south of Madras. It is potentially a one-third of a mile walk from the far side of the property to a bus stop. Street and sidewalk improvements would allow for future bus service through the development.

**Salem-Keizer School District** - Reviewed the proposal and indicated that Sumpter Elementary School, Judson Middle School, and Sprague High School serve the subject property. Students are eligible for transportation to and from the three schools. The School District estimates the proposal results in an additional 102 students, and an additional cost to the district of \$317,451 for new facilities beyond current facility capacity, due to change in student enrollment. The District recommends that the developer provide paved walk routes to allow pedestrian and bicycle access to the schools from residences within the new development and provide all improvements as required by the City of Salem standards. The School District requests that the applicant provide all improvements required by the City of Salem where new transportation routes are established such as school flashers, crosswalks, and signage.

**Department of Land Conservation and Development (DLCD)** – DLCD was provided notification of the proposal and stated that the applicant's TPR analysis conclusion that the proposed zone changes will not have a significant impact on the transportation system as the proposed uses will generate fewer trips than could be allowed by uses permitted under the current zoning is allowable and consistent with the Transportation Planning Rule (TPR).

DLCD also stated that for the proposal to be consistent with the TPR, the City needs to adopt zoning restrictions limiting allowed uses in the rezoned area to generating no more than 3,669 ADT. DLCD recommends that the City adopt as a part of the approval a trip cap so that a change or modification of the trip cap would require another zone change. The City should adopt conditions of approval to ensure the resulting development will support a well-connected street system.

**City Response:** Typically, Salem Public Works Department requires a Transportation Impact Analysis (TIA) to evaluate the increase in traffic from the proposed Comprehensive Plan/Zone Change. Most Comprehensive Plan/Zone Changes intensify the land use that will lead to an increase in traffic and must be evaluated and mitigated to satisfy the Oregon Transportation Planning Rule (TPR). On occasion, the Comprehensive Plan/Zone Change will actually reduce the future traffic potential. In these cases, the TPR is satisfied by virtue that the proposal does not cause a "significant effect."

The applicant provided a traffic evaluation from Associated Transportation Engineering & Planning, Inc. (ATEP). DLCD concurred with Applicant's TPR analysis, provided a zoning restriction is made a condition of approval which would limit allowed uses in the rezoned area to generate no more than 3,669 ADT. Such a restriction has been made a condition of approval.

The City Traffic Engineer reviewed the traffic evaluation and stated that a TIA will be required at the time an application for development on the Property is made. The City of Salem will require a detailed TIA to evaluate the surrounding transportation system, require any necessary mitigation and identify any needed improvements as part of the development of the property, and not part of the Comprehensive Plan/Zone Change.

#### **Salem Area Comprehensive Plan (SACP) Designation**

**Land Use:** The Salem Area Comprehensive Plan Map, effective November 2000, designates most of the subject property as "Parks, Open Space and Outdoor



Recreation." The Comprehensive Plan shows a Multi-Family Residential designation for tax lots 1000 and 1100. Staff cannot find any land use action that approved this Comprehensive Plan designation for the property nor can staff find any action that conclusively proves that it is the wrong designation. If the requested Comprehensive Plan, Neighborhood Plan, and Zone changes are approved this discrepancy will be fixed.

The Comprehensive Plan designations of surrounding properties include:

North: "Multi-Family Residential"  
South: "Parks, Open Space, and Outdoor Recreation"  
East: "Multi-Family Residential" and across Commercial Street SE,  
"Commercial"  
West: "Single-Family Residential" and "Multi-Family Residential"

Neighborhood Plan: The subject property is located within the South Gateway Neighborhood Association. The South Gateway Neighborhood Association does not have an approved neighborhood plan. Therefore, there is no intended use or zoning designation specified for the subject property that is specifically implemented through a neighborhood plan related to the current neighborhood association.

The subject property is also located within the boundaries of the former Liberty-Boone Neighborhood Association. Although the Neighborhood Association has dissolved there is an adopted Plan Map that includes designations for the subject property. The applicant has addressed the proposed changes to the Liberty-Boone Neighborhood Plan Map, which will be evaluated later in this report.

**Neighborhood and Detail Plans:**

Detailed plans are prepared as policy guides to the Salem Area Comprehensive Plan and are specific plans for a particular geographic area of the city, or for the provision or performance of some particular service or function. These plans have been submitted into the record.

Liberty-Boone Neighborhood Plan: Creation of neighborhood plans involves understanding what the neighborhood is now, what it should be, and how to achieve this particular "future." The Liberty-Boone Neighborhood Plan's "now" was in 1983. The goals and policies found within the plan are recommendations for the physical, social and economic development of the neighborhood. Goals and policies of the Liberty-Boone Neighborhood Plan as they pertain to the proposed amendment to the Neighborhood Plan Map are discussed in these findings.

Salem Transportation System Plan (TSP): The TSP uses a Street Classification System to determine the functional classification of each street within the City's street system. Two streets abut the subject property – Commercial Street SE to the east, and Madras Street SE to the north/northwest. The functional classifications for the streets are Major Arterial and Local Street, respectively.

Other relevant plans include:

Comprehensive Park System Master Plan, Adopted April 26, 1999.

Stormwater Master Plan. Adopted September 25, 2000.

Salem Transportation System Plan. Adopted June 28, 1998, and amended February 14, 2000, May 14, 2001, January 24, 2005, March 28, 2005, and July 9, 2007.

Salem Urban Area Public Facilities Plan. Adopted October 12, 1992.

Local Wetlands Inventory.

Natural Hazards Mitigation Plan.

**Zoning & Uses:**

Subject Property: Public Amusement (PA). The northeast portion of the subject property is located within the South Gateway Overlay Zone.

Zoning and land uses of surrounding properties include:

North: RM2 (Multiple Family Residential); multi-family dwellings  
South: PA (Public Amusement); vacant City-owned parcels, intended for storm water detention and flood control  
East: RM2 (Multiple Family Residential) and CR (Retail Commercial) across Commercial Street SE; condominiums, Courthouse Athletic Club and vacant parcel  
West: RM2 (Multiple Family Residential) and RS (Single Family Residential); condominiums and single family dwellings  
Northwest: RA (Residential Agriculture); single family dwellings

**Existing Site Conditions:**

Until October 2007, the site had been utilized as a privately-owned public golf course for more than 50 years. The course was closed, greens were removed and the buildings demolished in the fall of 2007.

In June 2007, the applicant filed a comprehensive plan/zone change application related to the entire 82.79 acres that used to make up the former golf course. The applicant withdrew that request before final action by the Planning Commission. Subsequently, an agreement was reached between the Applicant and the City of Salem to sell the southern 38 acres to the City for purposes of stormwater detention and flood management, thus fulfilling an identified need in the region. The transaction closed on December 31, 2008. The City of Salem is currently the fee title owner of the approximately 38 acres located to the south of the Subject Property.

In a memorandum from the Salem Public Works Department dated November 24, 2008, which has been entered into the record, the City's general plan for the 38 acre property was outlined.

"The improvements to be done on the City property on the south side of the golf course area will be completed in several phases:

- 1) Upon purchase, the City will immediately undergo a master planning process for the City-owned Battle Creek property, which will include environmental assessments, storm drainage capacity studies, and community outreach. The master plan for the site will include a proposed layout of the site, estimated costs for construction projects and on-going maintenance, and a proposed phasing plan for the required improvements.
- 2) Once the master plan is complete, then the construction projects will be prioritized through the City's Capital Improvements Program (CIP), which is the business document approved by City Council that identifies programs and schedules and presents a financing strategy for capital improvements. The CIP utilizes different infrastructure master plans (including parks, water/sewer/storm/street improvements, shops facilities, etc.) to develop an inclusive list of potential capital projects so that funding for these projects may be considered comprehensively.
- 3) As distinct phases of the Battle Creek Master Plan are approved through the CIP and budget processes, the City will design and construct those facilities as specified in the CIP and budget."

The Applicant is now requesting the City amend the Site's plan designation and zoning to more appropriate designations. Total acreage of the Site is 44.27 acres and is comprised of 8 contiguously owned tax lots. The site currently retains some former golf course related development. The former clubhouse and restaurant have been demolished as have a majority of the accessory structures. Primary access to the site is currently provided via a driveway onto Commercial Street SE, however, the site also maintains frontage along Madras Street SE. The site is relatively flat and Waln Creek runs through the site. Waln Creek is a City regulated waterway, which bisects the site roughly in half from north to south. Waln Creek empties into a confluence of Battle Creek, Scotch Creek and Powell Creek on the adjacent City-owned property to the south. Additionally, the portion of the site adjacent to the waterway contains floodplains and jurisdictional wetlands.

**Applicant Submittal Information:**

An application for a Minor Comprehensive Plan Change must include a thorough statement addressing the approval criteria. Similarly, requests for a zone change must be supported by proof that it conforms to all applicable criteria imposed by the Salem Revised Code. The applicant submitted such statements and proof. Information from the applicant's statements has been used to evaluate the applicant's proposal and to assist the facts and findings herein.

The applicant provided testimony that it intends to develop a master planned adult living community including a progression of housing types from detached single-family dwellings to an assisted care facility. It will provide an opportunity for elderly residents in Salem to live in a community where they can "age-in-place" rather than being required to move to accommodate their changing needs. Representatives from the industry testified at the public hearings as to the feasibility and desirability of such a development on the subject property. The applicant also proposes to develop a small-scale neighborhood commercial node adjacent to Commercial Street to provide complementary services to the adult living community and surrounding residential neighborhoods.

**FINDINGS APPLYING THE APPLICABLE SALEM REVISED CODE CRITERIA FOR A  
COMPREHENSIVE PLAN AMENDMENT**

Salem Revised Code (SRC) Section 64.040(g) defines a minor plan change as a single proceeding for amendment to the Comprehensive Plan affecting less than five privately and separately owned tax lots. This request is a Category 2 minor plan change, which is a quasi-judicial act. The burden of proof in meeting the approval criteria rests with the proponent of the change (SRC 64.090(a)). Salem Revised Code Section 64.090(b) establishes the approval criteria for Comprehensive Plan Map amendments. In order to approve a quasi-judicial Plan Map amendment request, the decision-making authority shall make findings of fact based on evidence provided by the applicant that demonstrates satisfaction of all of the applicable criteria. The applicable criteria are shown below in **bold print**. Following each criterion is a response and/or finding relative to the amendment requested. The applicant provided justification for all applicable criteria.

**Criterion 1: A lack of appropriately designated suitable alternative sites within the vicinity for a proposed use. Factors in determining the suitability of the alternative sites are limited to one or both of the following:**

- (A) **Size: Suitability of the size of the alternative sites to accommodate the proposed use; or**
- (B) **Location: Suitability of the location of the alternative sites to permit the proposed use; or**

**Criterion 2: A major change in circumstances affecting a significant number of properties within the vicinity. Such change is defined to include and be limited to one or both of the following:**

- (A) **The construction of a major capital improvement (e.g., an arterial or major collector, a regional shopping center, etc.) which was unanticipated when the Salem Area Comprehensive Plan or elements of the Comprehensive Plan were adopted or last amended; or**
- (B) **Previously approved plan amendments for properties in an area that have changed the character of the area to the extent that the existing designations for other properties in the area are no longer appropriate.**

The applicant is required to address one of the previous criteria and has chosen to address 1A and 1B.

Applicant contracted with MultiTech Engineering Services, Inc. (MultiTech) to prepare an analysis of potentially suitable sites in the vicinity of Applicant's property which could support the proposed uses. The alternative site analysis prepared by MultiTech and the findings therein, included as Exhibit 14 in the applicant's original submittal, are hereby incorporated.

MultiTech completed two levels of alternative site analysis for purposes of this application. For each analysis, MultiTech generally defines a suitable alternate site to be

defined as relatively flat land, frontage on at least one fully improved street, adequately served or possessing the potential to be served by municipal water and sewer facilities, vacant (defined as a tract of land with \$2,000 or less of assessed value structures located thereon), appropriate amount of acreage and correct zoning designation for proposed use. "Can be served" means that water and sewer facilities are present or can be extended to the site from existing services that do not involve annexation, State Land Use Goal exceptions or Conditional Uses in Marion County for the extension of facilities across land zoned for Farm or Forest use.

As mentioned, two levels of alternative site analysis were completed for determining the suitability of surrounding properties for supporting the proposed uses. First, MultiTech analyzed the potential alternative sites which could support the actual use being proposed. This involved looking at suitable alternate sites, 40 to 50 acres in size, which are located within three miles of the Site. The applicant provided the physical boundaries of the site's vicinity for purposes of this analysis. As defined by the applicant, the vicinity for the subject property is a three-mile radius. The three-mile radius extends north to Madrona Avenue SE, south to Enchanted Way Drive SE, west to Skyline Road SE and the Urban Growth Boundary, and east to Turner Road SE and the Urban Growth Boundary.

The next level of analysis involved looking at each component of the proposed use individually. For the 26.77-acre portion proposed for designation as Residential Single-Family, suitable alternative sites 25 to 30 acres in size which are located within one mile of the site were considered. For the 10.59-acre portion proposed for designation as Residential Multi-Family, suitable alternative sites 10 to 15 acres in size which are located within one mile of the site were considered. Finally, for the 4.67-acre portion proposed for designation as Commercial, suitable alternative sites four to five acres in size which are located within one mile of the site were considered.

Under the first analysis, which looked at 40 to 50-acre sites which could potentially support the aggregate uses which make up Applicant's proposed use on the site, there is a lack of appropriately designated suitable alternative sites within the defined vicinity of the site for development of a master planned adult living community. Adult living communities benefit from having multi-modal transportation options, proximity to professional and retail services and visibility along a commercial corridor. The Site is 44.27 acres in size, maintains direct access onto a commercial corridor, has readily available transit service and is proximate to a myriad of complementary uses like the South Salem Senior Center, Courthouse Athletic Club, retail service areas, and medical and dental clinics. No other sites analyzed by MultiTech had all of these site characteristics available. The analysis identified seven parcels within the three-mile radius that are between 40 and 50 acres in size. The parcels inside City limits are zoned IP (Industrial Park), PS (Public Services), and FMU (Fairview Mixed Use). The parcels located outside of City limits are zoned Marion County SA (Special Agriculture), UT- 20 (Urban Transition – 20 acre minimum), and EFU (Exclusive Farm Use). Furthermore, these zones do not allow for the uses proposed by the applicant and each parcel would require the same land use changes as the subject property. The Fairview site owned by OFO Partners, LLC and the parcel owned by the City of Salem would also require additional master plan amendments.

Under the second analysis, which looked at each component of Applicant's proposed use on the site individually, there is a lack of appropriately designated suitable

alternative parcels within the defined vicinity of each area to support the proposed uses requested in this application. For each component analyzed by MultiTech, there were no other suitable alternate sites in South or Southeast Salem which have the necessary zoning to site the proposed uses. Both analyses reveal the lack of appropriately designated alternative sites in the vicinity for the uses being proposed. For this purpose the applicant has defined vicinity as a one-mile radius. This includes their analysis of a 4- to 5-acre site for commercial retail uses, a 10- to 15-acre site for multi-family use, and a 25- to 30-acre site for single-family residential use. The one-mile radius extends north to Barnes Avenue SE, south just outside of City limits, and west to Creekside Golf Course, and east to Interstate 5 and Battle Creek Road SE.

The analysis identified two parcels within the one-mile radius that are between 4 to 5 acres in size. They are zoned RA (Residential Agriculture), and RM1 and RM2 (Multiple Family Residential). While one of the sites is relatively flat, neither of the sites have the appropriate zoning for a commercial retail use. Both would require the same land use changes as the subject property.

The 10 to 15 acre site analysis identified one parcel, which is located outside the City limits, along a gravel road. This site would require annexation, a comprehensive plan change and zone change, and extension of water and sewer facilities.

The 25 to 30 acre site analysis identified one parcel, which is relatively flat and has access to public streets; however, the streets are not fully improved. This site was not deemed as a suitable alternative site because it is currently in production as a vineyard and nursery.

The sites mentioned by the applicant are not on level ground like the subject property, an advantage for residential development. According to the transit map in the record, the other sites lack readily available transit service and are not in close proximity to commercial services, South Salem Senior Center, gym facilities, and medical and dental clinics.

The following two SACP Policies are applicable to location of residential uses. Section IV (Salem Urban Area Goals and Policies), Subsection E (Residential Development), Policy 1 (Establishing Residential Uses) states in part:

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.
- d. Proximity to services.
- 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.

Policy 2 (Facilities and Services Location) states:

Residential uses and neighborhood facilities and services shall be located to:

- a. Accommodate pedestrian, bicycle and vehicle access;
- b. Accommodate population growth;
- c. Avoid unnecessary duplication of utilities, facilities and services; and
- d. Avoid existing nuisances and hazards to residents.

These policies are discussed specifically under criterion 5. Those findings are incorporated herein.

The size of the subject property's proposed residential component, approximately 37 acres, could provide a mixed distribution of housing units, taking into consideration the wetlands and flood plains within the property. At the time of development, accommodations are made for pedestrian, bicycle and vehicle access pursuant to development standards, the Salem Transportation System Plan, and the conditions of approval. The property abuts Commercial Street SE to the east, designated a major arterial in the Salem *Transportation System Plan* (TSP). Madras Street SE, which abuts a portion of the property to the northwest, is designated a local street.

Therefore, the City concurs with the facts presented by the applicant that there is a lack of appropriately designated suitable alternative sites within the vicinity for the proposed Comprehensive Plan Map amendment with concurrent zone change based on the suitability of the size and location. Criteria 1(a) and (b) are satisfied.

**Criterion 3: The proposed plan change considers and accommodates as much as possible all applicable statewide planning goals; and**

The Salem Area Comprehensive Plan was adopted by the City and acknowledged by the Land Conservation and Development Commission (LCDC) as being in compliance with Oregon Statewide Planning Goals, statutes and administrative rules. The proposal must show that all applicable statewide planning goals have been considered and accommodated as much as possible. As set forth below, the findings demonstrate consideration and accommodates as much as possible of all applicable statewide planning goals.

**Goal 1. Citizen Involvement.**

A Minor Plan Change is processed as a quasi-judicial land use action. Public notice is required and a public hearing has been held giving interested citizens an opportunity to be involved in the process. In addition to the City's required citizen involvement tasks,

the applicant has actively engaged the surrounding property owners and the neighborhood association to keep them apprised of what is happening with the property, and accommodate their concerns where possible. (An explanation detailing these efforts has been listed above under the section titled "Public Outreach.") These outreach efforts ensure there is adequate citizen involvement in the land use process.

**Goal 2. Land Use Planning.**

The Salem Area Comprehensive Plan was adopted by the City and acknowledged by the Land Conservation and Development Commission (LCDC) as being in compliance with Oregon Statewide Planning Goals, statutes and administrative rules, in October 1992 and subsequently revised in March 1997, November, 2000, July 2002, November 2003, April 2004 and January 2005 and October 2008 (DLCD Order 08-WKTASK-001758). Additionally, there are a number of Detail Plans the City has adopted as policy guides to the Comprehensive Plan. The following is a list of Detail Plans relevant to this proposal:

*Comprehensive Park System Master Plan.* Adopted April 26, 1999.  
*Stormwater Master Plan.* Adopted September 25, 2000.  
*Salem Transportation System Plan.* Adopted June 28, 1998, and amended February 14, 2000, May 14, 2001, January 24, 2005, March 28, 2005, and July 9, 2007.  
*Salem Urban Area Public Facilities Plan.* Adopted October 12, 1992.  
*Local Wetlands Inventory.*  
*Natural Hazards Mitigation Plan.*

Salem Area Comprehensive Plan (SACP) amendments and Detail Plans are adopted by the City and acknowledged by the State in accordance with the planning process established under Goal 2, and are incorporated into the SACP. The proposal relies on information contained in the Comprehensive Plan and relevant Detail Plans, and the City will process it in accordance with the land use procedures established by SRC Chapter 64 and any other applicable Oregon statutes or administrative rules. This procedure will ensure compliance with Statewide Planning Goal 2. For these reasons, the proposal as processed considers and accommodates as much as possible Goal 2.

**Goal 5. Open Space, Scenic and Historic Areas and Natural Resources.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 5: *Natural Resources, Scenic and Historic Areas, and Open Spaces* (OAR 660-015-0000(5)):

***To protect natural resources and conserve scenic and historic areas and open spaces.***

*Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.*  
*The following resources shall be inventoried:*  
*a. Riparian corridors, including water and riparian areas and fish habitat;*  
*b. Wetlands;*



- c. Wildlife Habitat;*
- f. Groundwater Resources;*
- h. Natural Areas;*

The City identified regulated waterways in the Stormwater Master Plan and incorporated riparian protection measures into the Salem Revised Code (SRC). The City has also adopted a local wetlands inventory and a Comprehensive Parks System Master Plan, which identify wetland and natural area park resources. For purposes of this application, all identified wetland and riparian areas have been identified in the applicant's statement. These resources include a stretch of Wain Creek and associated riparian areas and jurisdictional wetlands.

Applicant is required to make certain improvements to Wain Creek with the intention of creating a riparian corridor and otherwise improving the safety, functionality, and aesthetic of the creek. There is the potential on this site to make many improvements, including stream bank modifications which increases the flood carrying capacity of the channel, improves pedestrian safety, and allows the stream to be returned to a more natural state than it currently is in. Applicant will lay the banks back to create sinuosity thereby increasing flood carrying capacity and improving the aesthetic and functionality of the creek. Additionally, applicant is required to dedicate drainage easements along Wain Creek to help further implement these goals.

Portions of the subject property are not developable due to Wain Creek and delineated wetlands on the site. Although wetlands are identified on the subject property, it has not been identified as an open space, scenic and historic or natural resource area. The wetlands on the property have been delineated by the applicant and have received concurrence from the Oregon Department of State Lands.

*Local governments and state agencies are encouraged to maintain current inventories of the following resources:*

- b. Open Space;*
- c. Scenic Views and Sites.*

Neither the City nor any State agency has identified or inventoried the Site as an open space or scenic resource, as it has never been publicly owned or operated. The City has purchased the 38-acre piece to the south of the Site. This 38 acre property may be added to the open space inventory, but is not part of this application.

#### **GUIDELINES FOR GOAL 5**

##### **A. PLANNING**

- 1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.*
- 2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.*

The City adopted a Comprehensive Park System Master Plan in 1999 identifying the minimum amount of open space needed to serve the residents of Salem. Accordingly, standards have been developed for the amount, distribution, and type of open space. The Master Plan Map identifies only one deficit related neighborhood park in the vicinity

of the Site, but not within the service area of the Site. This deficit related neighborhood park is identified as point D19 on the plan map. The facility attributes of a neighborhood park include the size, which ranges from 5 to 10 acres, and the service area radius of approximately .25 to .50 miles. As described in more detail below, the City may acquire this park land on or in the vicinity of the Site.

In 2000, the City purchased property for parkland on Wiltsey Road to mitigate this deficit. Additional park land is required to complete park service in the area to the south border of the Urban Growth Boundary. Urban Growth Area Development Permit No. 06-18 indicates a need for 5.3 acres of parkland south of Rees Park. The subject property is within the one-half mile service area of Rees Park, which contains 1.14 acres of developed parkland; and Wiltsey Road park property, which contains 3.07 acres of undeveloped parkland.

Although a neighborhood park may not be needed on the subject property, the Applicant has recognized the historical use of the subject property for outdoor recreation. As such, Applicant is required to incorporate approximately 2.24 acres of open space into the master planned adult living community, in addition to the area reserved for stream bank enhancements and drainage easements. This open space area is intended to provide a buffer between existing uses and the proposed development. Development in the buffer will be restricted, while the riparian areas will be enhanced to improve water quality and stream functionality and provide natural area in an urban environment. The perimeter buffer will retain the PA zoning designation to preserve the characteristics of the open space and shall be developed with a trail.

#### **B. IMPLEMENTATION**

*1. Development should be planned and directed so as to conserve the needed amount of open space.*

The City adopted a Comprehensive Parks System Master Plan identifying the necessary amount and desired location of open space. This Plan is implemented through outright fee acquisition, the administration of an urban growth management program and wetland and riparian protection ordinances. These programs and ordinances ensure the needed amount of open space is conserved at the time of development.

*4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.*

The subject property has not been identified for protection as a fish or wildlife area/habitat in any adopted Oregon Wildlife Commission fish or wildlife management plan. More specifically, the City, Marion County and the Mid-Willamette Valley Council of Governments Historic Salmon and Steelhead Distribution Maps, which are included in the record, indicate the subject property is upstream of a passage limitation for juvenile fish and, subsequently, no fish habitats have been identified on the subject property. According to correspondence in the record identified as "Fish bearing creeks on Battle Creek Golf Course," City of Salem Natural Resources [Division of the Public Works Department] indicated therein that trout have been identified in Battle Creek. Two culverts in Waln Creek are identified on the Distribution Maps as passage limitations to juvenile fish, which make a similar identification in Waln Creek unlikely.

*5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.*

Currently, the stream flows of the waterways are managed for minimal flood control and golf course maintenance. By implementing the conditions of approval, the stream flows will be managed and protected for flood control, riparian enhancement and stormwater management. Stormwater on the site will be diverted and managed by the City on the property immediately adjacent to the south.

Additionally, Applicant is required to contribute to riparian restoration by making significant improvements to the banks of the Wain Creek channel by allaying the banks and creating sinuosity. Improvements would primarily consist of grading and sloping the banks back and creating sinuosity. Not only will this enhance the riparian characteristics of the waterway, help improve water quality, and provide for additional wildlife habitat, it will also increase floodwater carrying capacity. The Applicant has also been in preliminary discussions with the Marion Soil and Water Conservation District and the Pringle Creek Watershed Council to explore other potential rehabilitation and enhancement options for the Site. These riparian enhancements would not require permits or approvals by the Department of State Lands or the Army Corps of Engineers, since the enhancements would all occur over uplands adjacent to and above the ordinary high water line of the creek. All of this taken together will contribute to stream flow and water levels which can be protected and managed in a way not currently possible on the property now.

*7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.*

The City utilizes an urban growth management program to acquire deficit related park land. They also encourage planned unit developments to protect valuable natural resources. The applicant will be required to dedicate drainage easements adjacent to Wain Creek. These tools, among others, allow the City to implement the policies of Statewide Planning Goal 5.

There are no known scenic, historic, or cultural resources on the subject property. On-site natural resources consist of sections of Wain Creek, and associated floodplain and wetlands identified in the City's local wetland inventory. The City's Tree Protection, Landslide, Floodplain and Wetland Development standards, along with the conditions of approval will be applied at the time of development of the subject property and will ensure compliance with Goal 5. The City finds that the proposal as processed considers and accommodates as much as possible Goal 5.

**Goal 6. Air, Water and Resources Quality.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 6: *Air, Water, and Land Resource Quality* (OAR 660-015-0000(6)):

***To maintain and improve the quality of the air, water and land resources of the state.***

*All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable airsheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.*

The proposed residential and commercial uses will not exceed the carrying capacity of the air and water resources available to serve the Site. The proposed development lies within the city, where development at an urban scale and density is intended to occur. Development of the subject property will not result in the production or discharge of waste except in the manner of a residential, commercial, and medical use. Specifically, the proposed development will not require the direct discharge of waste into the surrounding air or water and will rely on City waste services entirely. Moreover, the Site is within the City's Urban Services Area which means public facilities and services are currently available to serve the Site, in conformance with adopted Public Facility Detail Plans and the requirements of SRC Chapters 63 and 66; thus the City currently has adequate water, stormwater, and sewer services either in place or fully committed to serve the Site.

Any new development on site will be required to connect to public water, sewer, and storm drainage services. These services are available to the subject property. Water will be provided from the public water system. Wastewater will be discharged into the City's sanitary sewer system. Through the use of the City's sewage collection and treatment facilities there will be no sewage discharges from the property directly to a water body or to the ground. The City treats sewage to meet the applicable State standards for environmental quality. Surface water runoff will be collected and removed by the storm drainage system to an approved point of discharge. Future uses proposed for the site will require the appropriate reviews to ensure compliance with air, water and land resources quality. In addition, the applicant has an agreement with the City to allow the applicant to divert water which ensures that all stormwater on the site will be diverted and managed by the City on land immediately adjacent to the south. The proposed change will not increase the potential effects on air, water and land resource quality. Therefore, the City can adequately serve the proposed development's waste and discharge needs, and future development will not exceed the current resources' carrying capacity.

The area surrounding the subject property is characterized by primarily residential and commercial activities. The property lies along an existing, major transportation route, Commercial Street SE, with access to a local road, Madras Street SE. The proposed Comprehensive Plan Map amendment would not create significant adverse impacts to the quality of air, water or land resource quality as a result of this proposal.

A portion of Wain Creek traverses the subject property and the local wetlands inventory identifies wetlands along the waterway. The City's Tree Protection, Landslide, Floodplain and Wetland Development standards, along with the conditions of approval will be applied at the time of development of the subject property and will ensure compliance with Goal 6. Based on the above, the City finds the proposal can comply with applicable environmental standards, and that it is reasonable to expect that it will as future

development is evaluated and conditioned through the subsequent land use processes. The proposal as processed considers and accommodates as much as possible Goal 6.

**Goal 7. Areas Subject to Natural Hazards.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 7: *Areas Subject to Natural Hazards* (OAR 660-015-0000(7)):

**A. NATURAL HAZARD PLANNING**

1. *Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.*
2. *Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.*

The City has adopted a Natural Hazards Mitigation Plan, incorporated as part of Salem's Comprehensive Plan, which inventories potential landslide and flooding hazards, and outlines policies and implementing measures to address those identified natural hazards. Natural hazards inventory maps are included in this plan.

The applicant identified the natural hazards located on the property. There are no identified landslide hazards on the subject property. Goal 7 required 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. As an additional condition of approval, applicant will be required to submit a letter of map revision (LOMR) to FEMA to update the maps regarding the floodways and floodplains that affect the property.

**B. PLANNING**

1. *In adopting plan policies and implementing measures to protect people and property from natural hazards, local governments should consider:*
  - a. *the benefits of maintaining natural hazard areas as open space, recreation and other low density uses;*
  - b. *the beneficial effects that natural hazards can have on natural resources and the environment; and*
  - c. *the effects of development and mitigation measures in identified hazard areas on the management of natural resources.*

The City adopted specific policies for protection against flood hazards. Policies pertaining to flood hazards are contained in both the Natural Hazard Mitigation Plan and the Stormwater Master Plan. Implementing measures can be found in the Salem Revised Code under Chapters 68 and 140. These policies and implementation measures recognize the complementary benefits of natural hazard and natural resource management. Accordingly, Applicant is required to minimize flood hazard impacts by providing natural area open spaces, enhancing riparian corridors, dedicating drainage easements, and implementing provisions of the Stormwater Master Plan. Applicant will also be required to develop under the zero net rise condition, offsetting any fill placed below the floodplain with compensatory flood storage. Applicant will have the right to

use the City-owned property adjacent to the south for purposes of storing additional storm water. Finally, the Applicant has been in discussions with the City of Salem, Marion Soil and Water Conservation District, and the Pringle Creek Watershed Council to explore other potential rehabilitation and enhancement options for the Site.

### **C. IMPLEMENTATION**

*1. Local governments should give special attention to emergency access when considering development in identified hazard areas.*

The subject property currently maintains frontage along two public streets; Commercial Street and Madras Street. These streets will provide primary vehicular access to the subject property at three points. The property will also share access with the City-owned property to the south when it is developed. Additionally, Applicant entered into a contractual agreement with an adjacent property owner to provide secondary emergency access to the 38 acres of open space/flood management property to the south. Although this access is located adjacent to the City-owned parcel, Applicant has retained easement rights from the City for purposes of emergency vehicle access in the event this access is required by government authority to support Applicant's development. The access would be over a vacant lot identified as Lot 10, Block 6, Battlecreek Estates No. 3, Salem, Marion County, Oregon.

*2. Local governments should consider programs to manage stormwater runoff as a means to help address flood and landslide hazards.*

The City's Stormwater Master Plan recommends waterway/drainage improvements to minimize flood hazard impacts. Applicant is required to implement applicable provisions of the Stormwater Master Plan to help address flood hazards on-site and in the vicinity of the Site. One of the specific recommendations of the Plan is the enhancement of the waterways and associated riparian areas. The Applicant has been in discussion with the City of Salem, Marion Soil and Water Conservation District and the Pringle Creek Watershed Council to explore other potential rehabilitation and enhancement options for the Site beyond those required as conditions of approval. Applicant will provide significant enhancements to the Waln Creek channel which will increase the carrying capacity of the waterway, and enhance the functionality and aesthetic of the creek. Applicant will also dedicate drainage easements to help manage stormwater runoff. Additionally, Applicant plans to develop the site in such a way that takes full advantage of the stormwater detention facility and flood management basin that the City will construct immediately to the south of the site. Applicant will be developing the site under a zero net rise condition of approval which requires compensatory flood storage for all fill placed in the floodplain.

Testimony has been received that states that the requested Comprehensive Plan Change will increase the risk to people and property from natural hazards and therefore, not comply with Goal 7. The requested Comprehensive Plan Change does not increase the risk of flooding. A subsequent proposed development may have the potential to increase the risk of flooding; however, the application under review does not encompass review or approval of a development plan or development standards.

In a memorandum from the Salem Public Works Department dated November 24, 2008, Public Works Staff addressed the subsequent processes which would be used to review future development onsite.

"The developer could proceed next through a subdivision process or directly through the site plan review process. The two options are substantially similar and have the general procedure as follows:

- 1) The storm drainage impacts will be addressed in the subdivision and/or site plan review land use process. Those land use processes generally identify the downstream stormwater deficiencies that the developer's engineer needs to analyze. The land use conditions will specify on-site setbacks and other improvements required and the downstream areas that need to be analyzed and/or improved.
- 2) Once the land use processes are complete, then the developer's engineer will create construction drawings and perform engineering studies. That information is submitted to the City in the developer's application for construction permits. The permit processes analyze the engineering studies and construction plans. The City's review ensures compliance with the applicable Codes and Design Standards for all of the utility and infrastructure- but especially related to storm drainage and how the design addresses upstream stormwater collection, downstream stormwater disposal, and onsite master plan, detention, and water quality requirements.
- 3) The developer will start construction of on-site stormwater improvements after the plan review process is complete and permit conditions have been met."

Therefore, at the time of development, the applicant shall be required to mitigate flood hazards as specified in SRC 140 and pursuant to the zero net rise condition of approval. As a result, the proposed Comprehensive Plan and Zone Change will not change the risk of flood hazards to neighboring property owners.

Flooding hazards are mitigated through federal regulations in the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA). The City of Salem's floodplain ordinance and policies have been reviewed by FEMA and found to be exceeding the minimum NFIP requirements, as evidenced by FEMA awarding the City's rating of 7 in the Community Rating System.

Testimony received citing SACP Policy IV.N.7 states that the Plan amendment would allow development in the floodplain that would not otherwise be permitted. As previously discussed, staff has identified the uses that are permitted to develop on the subject property under the current zoning. It is inaccurate that the application will allow development where it is currently not permitted. The site can be developed consistent with the PA (Public Amusement) zoning.

Any development on the subject property is required to comply with the City's floodplain management ordinance in Salem Revised Code Chapter 140. The flood provisions in SRC 140 mitigate flood hazards for all development projects in compliance with NFIP regulations regardless of comprehensive plan or zoning designations. SRC 140 restricts flood damage from occurring upstream, within, and downstream of the subject property. Within the subject property, SRC 140.100 requires that structures are elevated a

minimum of one foot above the base flood elevation to minimize flood damage to buildings. Furthermore, applicant is required to develop the site under a zero net rise condition of approval which requires compensatory flood storage to be provided for fill material placed in the floodplain. This development restriction is more onerous than those restrictions of SRC 140.

To mitigate upstream impacts, SRC 140.090(b) restricts placement of fill materials and other obstructions within the regulatory floodway. Any development proposal would be required to comply with SRC 140.090(b) so that flood flows can be conveyed safely through the subject property.

To mitigate downstream impacts, the overall development proposal will be required to comply with SRC 140.140(a), which ensures that flood damage is minimized to adjacent parcels. The applicant's drainage study shall address these flooding considerations during the development process.

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 the applicable conditions of approval and will ensure compliance with Goal 7. Emergency access can be provided to the subject property, if necessary, via the City owned property to the south as well as Madras Street and Commercial Street. The applicant will also be required to make necessary improvement to Waln Creek as identified in the Stormwater Master Plan and the conditions of approval. The applicant will also be required to dedicate drainage easements along Waln Creek, as well as develop the property so there is a zero net rise in potential floodwater on the property. Based on the above, any risk to the public can be safely and feasibly mitigated. The proposal as processed considers and accommodates as much as possible Goal 7.

**Goal 8. Recreational Needs.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 8: *Recreational Needs* (OAR 660-015-0000(8)):

***A. PLANNING***

- 1. An inventory of recreation needs in the planning area should be made based upon adequate research and analysis of public wants and desires.*
- 2. An inventory of recreation opportunities should be made based upon adequate research and analysis of the resources in the planning area that are available to meet recreation needs.*

The City has adopted a Comprehensive Parks System Master Plan inventorying recreation needs and opportunities. The subject property is privately-owned. The Master Plan does not identify the subject property as meeting a recreational need for the South Salem area, nor does it identify the subject property as providing a recreational opportunity.

- 7. Planning and provision for recreation facilities and opportunities should give priority to areas, facilities and uses that*
  - (a) Meet recreational needs requirements for high density population centers,*
  - (b) Meet recreational needs of persons of limited mobility and finances,*



- (c) Meet recreational needs requirements while providing the maximum conservation of energy both in the transportation of persons to the facility or area and in the recreational use itself,*
- (d) Minimize environmental deterioration,*
- (e) Are available to the public at nominal cost, and*
- (f) Meet needs of visitors to the state.*

The City's adopted Comprehensive Parks System Master Plan identifies a need for a neighborhood park facility in the vicinity of the subject property, but not in the service area of the subject property. A neighborhood park facility is intended to emphasize unscheduled and unorganized active and passive recreation opportunities for local residents. The past recreational use of the subject property was a privately owned golf course, and did not provide for unscheduled and unorganized recreation opportunities. The past golf course use of the subject property could not be maintained by the City because of the acquisition cost and steep operational and water resource costs as mentioned in the City Council initiated golf course study, included in the record. Based on this information, it is not warranted at this time for the City to acquire or maintain the subject property as a public golf course.

The applicant will be required to provide trails within the open space perimeter buffer. These trails will be available to the public and will connect with other pedestrian amenities, including those that may be developed on the City-owned property to the south.

*8. Unique areas or resources capable of meeting one or more specific recreational needs requirements should be inventoried and protected or acquired.*

Any natural resources located on the subject property will be inventoried and protected in accordance with the City's provisions for riparian protection and flood hazard mitigation. Additionally, Applicant is required retain approximately 2.24 acres of the subject property as a natural area open space to be developed with a trail, in addition to the area reserved for riparian enhancements, to provide a buffer between existing development and the proposed residential uses. The land adjacent to Wain Creek will be protected with drainage easements and those areas could be incorporated into the trail system on the property.

#### **B. IMPLEMENTATION**

*Plans should take into account various techniques in addition to fee acquisition such as easements, cluster developments, preferential assessments, development rights acquisition, subdivision park land dedication that benefits the subdivision, and similar techniques to meet recreation requirements through tax policies, land leases, and similar programs.*

The City utilizes various techniques for meeting recreational requirements of the Comprehensive Parks System Master Plan. These include fee acquisition, pedestrian access easements, planned unit developments, and the urban growth management program. The Master Plan identifies the need for a neighborhood park in the vicinity of the Site, but outside the service area. The subject property lies within the one-half mile service area of Rees Park, a 1.14-acre developed park, and Wiltsey Park property that contains 3.07 acres, but is currently undeveloped. This recreational requirement may be

achieved through fee acquisition or the incorporation of parkland into a master planned development.

The applicant is required to retain approximately 2.24 acres of natural area open space around the perimeter of the Site, developed with trails, in addition to the area reserved for riparian enhancements. This open space area could potentially provide recreational opportunities for future residents of the adult living community, as well as existing, neighboring properties, and could potentially be integrated with any recreational opportunities that may be provided on the 38-acre City-owned parcel which is adjacent to the south of the Site.

The City finds that the proposal as processed considers and accommodates as much as possible Goal 8.

**Goal 9. Economic Development.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 9: Economic Development (OAR 660-015-0000(9)):

*Comprehensive plans for urban areas shall:*

- 1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;*
- 2. Contain policies concerning the economic development opportunities in the community;*
- 3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;*

The City's Comprehensive Plan contains commercial and economic development policies pertaining to the identification and protection of employment lands. Conformance with these policies is addressed in more detail below. As a supplement to the Comprehensive Plan, the City has also adopted an Economic Opportunities Analysis entitled *Salem Regional Employment Center Economic Opportunities Analysis, October 2004-Revised* (Case No. CI-CPC/ZC/Text and Map Amendment 04-12; Ordinance Bill No. 2-05). The Salem Regional Employment Center EOA concludes the following pertaining to commercial land need:

*Commercial Land: RTSP projections were used to forecast commercial employment growth. For the purpose of the analysis, public administration, education and social services were excluded. Based on this forecast, there is a 20-year demand of 479 acres for commercial use. After factoring the 15% share of demand that will be accommodated through redevelopment, a net demand of 407 acres remains. Of the available commercial vacant inventory, only 285 acres are available in lots or parcels that are more than two acres in size. This results in a short fall of 122 acres needed for uses that require larger sites, including office parks and neighborhood retail centers. Finally, there is only one lot or parcel that is 20 acres or greater in size available for commercial uses.*

The proposal to redesignate 4.67 acres of the Site to Commercial will help address the identified short fall of 122 acres of employment land needed for office and retail uses. Since the proposal is to supplement the City's employment lands inventory rather than deplete it, the provisions of OAR 660-9-0010(4) are not applicable.

The proposed action conforms to Statewide Planning Goal 9 as the request meets the guidelines to consider when planning for economic development. The requested change would increase local economic development. Community and neighborhood-related services would provide opportunities for residents in the neighborhood to walk or bicycle to the services located within the site.

Oregon Statewide Planning Goal 9 is implemented by OAR 660-009-0005-15, which establishes criteria to be addressed if a local government proposes to change acknowledged comprehensive plan designations to or from commercial or industrial use for sites greater than two acres in size and located within the local government's "planning area." One of the criterion requires the completion of an Economic Opportunities Analysis (EOA) or supplement thereto. To meet the requirements of OAR 660-009-0015, an EOA or supplemental report should include the following components:(1) A review of national, state, and local trends; (2) An identification of site requirements;(3) An inventory of industrial and lands; and (4) An assessment of community economic development potential.

The applicant references the *Salem Regional Employment Center Economic Opportunities Analysis* (EOA) report of October 2004, prepared for the Salem Regional Employment Center-Mill Creek Industrial Park Project, which has been included in the record. Although the EOA was prepared specifically for the Mill Creek Corporate Center it provides the most recent and comprehensive data available for economic development trends and for the inventory of industrial and commercial land within the urban area for the 20-year planning period. The applicant references the EOA document, which was prepared by the Planning Division of the Community Development Department. Industrial lands are not relevant to this proposal.

The EOA presents data regarding national, state, regional and local employment trends. The national trend is for employment in-retail trade, financial activities, professional and business services, health services, and other services, to increase. The state trends follow the national trends, with employment in retail trade, finance, insurance and real estate, and services projected to increase. The increase in job growth in these sectors is tied to the projected increases and changes in the population. Job growth specific to Marion and Polk Counties is shown in Table 4, p. 9 of the EOA. This table shows an increase of 18,198 jobs from 2002 to 2012, with a large percentage of the new jobs occurring in the retail and service sections. Employment in the services sector is projected at a faster rate than the other sectors.

The EOA identifies not only population increase but also demographic change as a driving force behind the projected increase in the service sector. The aging population in Oregon is increasing demand for goods and services connected to the needs of an older population. The EOA states that the retirement of the "baby boomers" will generate an increased "need for health care, legal services and social services. As a result, it is predicted that the services sector of the economy of these counties [Marion and Polk] will grow at an average annual rate of 2.2 percent, the largest of any sector."

The proposed adult care facility will provide this specific service within the Salem urban area, while creating job opportunities for skilled labor. The requested change may also increase local economic development in that development of the property into residential lots would provide jobs during construction in addition to the proposed re-designation of

a portion of the subject property to Commercial will provide additional land for these needed services. Based on the foregoing, the proposal as processed considers and accommodates as much as possible Goal 9.

**Goal 10. Housing.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 10: *Housing* (OAR 660-015-0000(10)):

***To provide for the housing needs of citizens of the state.***

*Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*

**GUIDELINES**

**A. PLANNING**

1. *In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include:*

- (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost;*
- (2) a determination of vacancy rates, both overall and at varying rent ranges and cost levels;*
- (3) a determination of expected housing demand at varying rent ranges and cost levels;*
- (4) allowance for a variety of densities and types of residences in each community; and*
- (5) an inventory of sound housing in urban areas including units capable of being rehabilitated.*

2. *Plans should be developed in a manner that insures the provision of appropriate types and amounts of land within urban growth boundaries. Such land should be necessary and suitable for housing that meets the housing needs of households of all income levels.*

3. *Plans should provide for the appropriate type, location and phasing of public facilities and services sufficient to support housing development in areas presently developed or undergoing development or redevelopment.*

As detailed above, Oregon Statewide Planning Goal 10 requires the City to allocate adequate amounts and types of land to accommodate the needed housing units for all incomes. Specifically, the amount and types of needed land are adequate if the amount of available buildable lands within the UGB is greater or equal to the Projected Land Consumption (herein the "PLC"). However, the determination of whether the City has adequate residential lands does not necessarily involve all of the requirements necessary for an inventory of buildable lands pursuant to periodic review. See ORS 197.296 (requiring an analysis of demographic, population, and economic trends, and the number, density, and average mix of housing types that have occurred on the buildable lands).

The amount of available buildable lands is determined by making an inventory of all lands "suitable, available and necessary for residential use." OAR 660-008-0005(2). In other words, buildable lands means residentially designated vacant, and at the option of

the City, redevelopable land within the UGB that is not: severely constrained by natural hazards, subject to natural resource protection measures, publicly owned, has a slope of 25 percent or greater, within the 100-year floodplain, or cannot be provided with public facilities. OAR 660-008-0005(2). The Salem Futures Constrained Lands Analysis ("Salem Futures"), dated August 11, 2000, identified 4,719 acres of vacant residential land within the Salem-Keizer UGB. A follow-up report prepared by ECONorthwest entitled "The Salem Housing Market and Implications for Land Demand," indicated that approximately 19,000 housing units could be accommodated on the 4,719 acres of vacant residential land (10,000 units on 3,985 acres of vacant single-family residential and 9,000 units on 734 acres of multi-family residential). In 2000, ECONorthwest determined these 19,000 dwelling units merely accounted for two-thirds to four-fifths of the total residential land demand implied by the forecast of population growth to 2020.

The Salem Futures analysis or the ECO Northwest reports however, were not adopted by the City of Salem. The City has an adopted housing inventory developed as a part of periodic review. As established in the City's periodic review submittal dated October 25, 2001 and approved by DLCD on November 23, 2001, the City's housing inventory is composed of existing Single Family Residential zoned lands, and the additional lands identified in Ordinances 60-2000, 16-99, 93-98, and 92-98. The City's residential land inventory completed and adopted in 1996 by the City indicated 5,393 acres of vacant residential land.

The PLC is determined by calculating the number of projected dwelling units and dividing that number by the assumed population density. The first step in determining the number of projected dwelling units is calculating projected population. The Salem-Keizer Area Transportation Study (SKATS) document, "2031 Regional Transportation Systems Plan", is acknowledged by jurisdictions within the Salem MPO (Metropolitan Planning Organization) designated by the U.S. Census. It is based on 24-year projections of population, employment, and land use in the Salem-Keizer area to identify transportation needs over the next 24 years. It was adopted by the SKATS Policy Committee on May 22, 2007. According to the SKATS study, the UGB population is projected to increase by 55,100 persons in 2020, resulting in a UGB population of 258,300. In 2027, this number is expected to increase by 16,909 persons to 275,209 persons living within the Salem UGB.

Traditionally, 66 percent of UGB residents live in single family dwellings and 33 percent of the residents live in multifamily dwellings. Additionally, the average household size is approximately 2.7 residents in a single family dwelling and 1.77 residents in a multi-family dwelling unit. Assuming those trends continue, the UGB will need to add by 2020 an additional 13,605 single family dwelling units and 10,377 multifamily dwelling units or 23,982 total dwelling units. Similarly, the UGB will need to add by 2027 an additional 17,780 single family dwelling units and 13,561 multifamily dwelling units or 31,341 total dwelling units.

Pursuant to Salem Urban Area Goals and Policies - General Development Goal 7, the Applicant will assume the City will develop at a rate of 6.5 dwelling units per acre. Thus, the UGB's population will consume an additional 3,690 acres by 2020 and an additional 1,132 acres beyond that by 2027, for a total land consumption of 4,822 acres by 2027.

Moreover, between 2000 and 2007, the City consumed 1,536 acres of land at a density of approximately 5.2 units per acre.<sup>1</sup> Thus, only 3,857 acres of buildable residential land remained available in the UGB as of 2007. Salem Area Comprehensive Plan Part IV.B., General Development, Policy 7 states an average residential goal of 6.5 units per gross acre. This is merely a policy, and not codified density requirement in the Salem Revised Code. Using this rate of growth, the UGB's population will consume an additional 3,690 acres by 2020 and an additional 1,132 acres by 2027. If the future development continues to develop at the same density in which it developed between 2000 and 2007, the City will actually face a deficit of buildable residential land by 2027. Therefore, the City's need for increasing its inventory of residential lands may be even greater than projected. Currently, there are approximately 3,359 acres of vacant residential land within the Salem-Keizer UGB, which accounts for roughly one-half to two-thirds of the total residential land demand implied by the forecast of population growth to 2020. The proposed conversion of 37.36 acres from Parks, Open Space and Outdoor Recreation to RS (Single Family Residential – 26.77 acres) and RM1 (Multiple Family Residential – 10.59 acres) would help address possible shortages in Salem's residential land supply.

Currently, the State's Office of Economic Analysis, "Forecast of Oregon's Populations by Age and Sex" (herein "OEA") and census data, reports that 21.0 percent of the residents in Marion and Polk County are age 55-or-older. However, OEA states that the 55-and-over demographic will increase to 25.8 percent of the residents by 2020. Thus, the overall need for more residential lands is amplified by the increase in the 55-or-older demographic, and therefore the need for the proposed development is even more substantial than it would be for typical residential development which could be sited on the subject property.

Furthermore, much of the remaining residential land supply in the City of Salem is constrained by natural hazards (e.g. landslide hazards in South and West Salem) and/or the uneconomical provision of public facilities to adequately serve the site (i.e. development of water reservoirs to serve West, South and Southeast Salem). These types of constraints make it more costly to develop land for residential purposes. Without the proper development incentives, these constraints will limit the amount of affordable housing being constructed in the City. The subject property would provide a unique opportunity in southeast Salem to develop a new mixed-density residential neighborhood accommodating households of varying types and incomes.

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.

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<sup>1</sup> The number of acres and development units consumed between 2000 and 2007 in Salem was calculated by adding the number of acres (1,536) and the number of multifamily units and single family lots (7,641) created by approved subdivision, planned urban development, and multifamily apartment applications. The overall residential density during this period was 5.23 units per acre.

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.

Therefore, the proposal to designate 37.36 acres of land to residential in order to develop an adult living community will help ensure the City remains compliant with Goal 10. The City finds that the proposal as processed considers and accommodates as much as possible Goal 10.

**Goal 11. Public Facilities and Services.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 11: *Public Facilities and Services* (OAR 660-015-0000(11)):

***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.***

*Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons.*

**GUIDELINES**

**A. PLANNING**

*3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.*

**B. IMPLEMENTATION**

*2. Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.*

*3. The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.*

The City has adopted Stormwater, Wastewater and Water Master Plans as Detailed Plans to the Salem Area Comprehensive Plan. These Detailed Plans outline the public facilities and services needed to serve land within the Urban Growth Boundary. The City utilizes an Urban Growth Management Program to ensure necessary public facilities and services are available to serve new development. As part of the program, the City has designated an Urban Service Area (USA) boundary delineating the area in the City where all necessary public facilities have either been installed or are fully committed in the adopted Capital Improvement Plan.

The Site is located within the boundary of the Urban Service Area. Therefore, public facilities and services are currently available to serve the Site, in conformance with adopted Public Facility Detail Plans and the requirements of SRC Chapters 63 and 66.

Moreover, on-site public facility and service improvements will be reviewed for conformance with adopted facility plans at the time of site development.

By providing adequate public facilities and services for the proposed use, the requirements of this Goal are met. In accordance with the Salem Revised Code and applicable master plans, any required improvements to public facilities and services to serve the proposed future use of the property will be determined by the City at the time development permits are requested.

The applicant shall link the proposed development to adequate water facilities; and link the development to adequate sewer facilities. Public water and sanitary sewer systems are available to serve the subject property. There are public sanitary sewer lines within 15-foot dedicated easements crossing through the subject property to the Battle Creek pump station at Commercial Street SE. There is an eight-inch public sanitary sewer line in Madras Street SE.

There is a twelve-inch public water line in Commercial Street SE. There is also a one-inch irrigation meter to the property. As a condition of water service, all development within the subject property shall be required to provide public water mains of sufficient size for fire protection. At the time of development, water meters shall be placed along the right-of-way adjacent to the subject property (City of Salem Policy and Procedure WA 2-7). Each lot shall have an independent water service from the meter to the lot (SRC 72.093).

Although the proposed development lies inside the Urban Service Area, it does not appear to have adequate connections to the existing public street system. Connections to the public street system have been made a condition of approval.

An Erosion Control Permit from the City of Salem is required prior to the start of any ground disturbing activities as specified in SRC Chapter 75.

Waln Creek crosses the subject property. This creek is within the Battle Creek Drainage Basin as identified in the City of Salem *Stormwater Master Plan*, and is designated on the Federal Emergency Management Agency's (FEMA) floodplain maps as a regulated waterway. The applicant shall dedicate a drainage easement adjacent to the creek, which shall be approved to the satisfaction of the Public Works Director. The Stormwater Master Plan identifies conveyance and enhancement deficiencies within the creek. The applicant shall be required to construct Stormwater Master Plan improvements for Waln Creek system as defined within the Battle Creek Basin project list to the satisfaction of the Public Works Director. Applicant is also required to allay the banks of Waln Creek and create sinuosity. Development within the floodplain requires floodplain development permits and is subject to the requirements of SRC Chapter 140. Additionally, applicant must go beyond the standards set forth in SRC Chapter 140 and develop such that any flood capacity lost due to fill placed within the floodplain be compensated so there will be a zero net rise of potential floodwater onsite.

The proposal as processed considers and accommodates as much as possible Goal 11.

**Goal 12. Transportation.**



The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 12: Transportation (OAR 660-015-0000(12)):

*A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans.*

The City's Comprehensive Plan contains transportation policies pertaining to the provision of a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people. As a supplement to the Comprehensive Plan, the City has also adopted a Transportation System Plan, which considers all transportation modes, is based on an inventory of transportation needs, encourages sustainability, facilitates the economic flow of goods and services, and conforms to the Salem Area Comprehensive Plan and the Regional Transportation System Plan. Conformance with these transportation policies is addressed in more detail below.

In addition to the requirements of the Statewide Planning Goal, there are specific transportation planning rule provisions that are applicable to comprehensive plan map amendments. More specifically, Oregon Statewide Planning Goal 12 is implemented by OAR 660-012-0060(1), which states:

*"Where an Amendment to a functional plan, an acknowledged comprehensive plan or a land use regulation would significantly affect an existing or planned transportation facility the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified functions, capacity and performance standards (i.e. level of service, volume to capacity ratio, etc.) of the facility."*

OAR Section 660-012-0060(1) further states that to determine if a proposed use significantly affects a transportation facility the following must be found:

*"(a) Changes the functional classification of an existing or planned transportation facility;*  
*(b) Changes standards implementing a functional classification system; or*  
*(c) As measured at the end of the planning period identified in the adopted transportation system plan:*  
*(A) Allow land uses or levels of development which would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*  
*(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable level performance standard identified in the TSP or comprehensive plan;*  
*(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

To ensure compliance with OAR Section 660-012-0060(1), Applicant contracted with Associated Transportation Engineering and Planning Inc. to complete a Transportation Planning Rule Analysis. This analysis compared reasonably expected trip generation from the Site developed under the current plan designation of "Parks, Open Space and Outdoor Recreation" and "Residential Multi-Family" to trip generation from the Site developed under the proposed plan designations of Residential Single-Family, Residential Multi-Family and Commercial.

The analysis found a reasonable development scenario of the site under the current plan designation would generate up to 3,669 average daily trips (ADT). To provide assurance the proposed amendment does not significantly impact a transportation facility, the analysis recommends future traffic generation from the site be limited to 3,669 ADT. This is a reasonable limitation given it will, as an example, accommodate a minimum development of 150 single-family dwellings for persons 55-or-older, a 175-resident continuing care retirement community and retail or medical uses and high turnover restaurant on the commercial piece.

DLCD has also concurred with this analysis. DLCD requested that the City adopt zoning restrictions limiting allowed uses in the rezoned area to generating no more than 3,669 ADT. DLCD also requested that the City adopt a trip cap as a part of the approval so that a change or modification of the trip cap would require another zone change, including the necessary steps to address the TPR. Applicant is required to restrict the average daily trips for the Site. This will ensure compliance with the Transportation Planning Rule, as well as the findings of the traffic engineering analysis.

The subject property borders Commercial Street SE to the northeast, which is designated a major arterial in the Salem TSP, and Madras Street SE to the north, a local street. Commercial Street SE has an existing 62-foot turnpike improvement within a 100-foot-wide right-of-way. As a major arterial street in the Salem TSP, the standard for this street classification is a 68-foot-wide improvement within a 96-foot-wide right-of-way. Traffic analysis shall be required to evaluate adequate connectivity to provide for a safe, orderly, and efficient circulation of traffic into, through, and out of the development, to the satisfaction of the Public Works Director. The applicant shall provide a public street connection to Commercial Street in an alignment with the Courthouse Athletic Club driveway across the street. No direct driveway access shall be allowed to Commercial Street SE.

Public transit service is available east of the property on Commercial Street SE. The transit and bicycle facilities on Commercial Street SE provide transportation alternatives to the private auto to reach the subject property.

Madras Street contains a 15-foot half-street improvement adjacent to the subject property with a nine-foot turnpike improvement opposite within a 61-foot-wide right-of-way. As a local street in the Salem TSP, the standard for this street classification is a 30-foot-wide improvement within a 60-foot-wide right-of-way. Although Public Works determined that no additional right-of-way or improvements are required, the applicant shall complete a traffic analysis that takes into consideration a public street connection to Madras Street SE and demonstrate there is adequate site distance.

At the time of development, the applicant shall be required to comply with local street standards with a 30-foot improvement within a 60-foot right-of-way, for all public streets within the proposed development in the alignments to be approved to the satisfaction of the Director of Public Works.

The size of the proposed development may require a need for additional connections to adjacent public streets to provide for safe, orderly, and efficient circulation into, through, and out of the development.

Based on the proposed mitigation i.e., improvements required as part of development of the subject property like creating additional connections to adjacent public streets to the west and south, the change in the land use designation for this property will not cause a significant impact on the existing transportation system, or result in the level of service decreasing to an unacceptable level. The requirements of Goal 12 can be met because the recommended zone change conditions are in keeping with the requirements of the Salem TSP. Zone change criteria and conditions are discussed later in this report. As conditioned, the proposed changes to the subject property will not have a significant impact on the existing transportation facilities, and development of the subject property can occur in such a manner to provide a safe and convenient transportation system.

The City finds that the proposal as processed considers and accommodates as much as possible Goal 12.

**Goal 13. Energy Conservation.**

The following italicized section has been excerpted from Oregon's Statewide Planning Goals & Guidelines for Goal 13: *Energy Conservation* (OAR 660-015-0000(13)):

**GUIDELINES**

**A. PLANNING**

3. *Land use planning should, to the maximum extent possible, seek to recycle and re-use vacant land and those uses which are not energy efficient.*
4. *Land use planning should, to the maximum extent possible, combine increasing density gradients along high capacity transportation corridors to achieve greater energy efficiency.*

**B. IMPLEMENTATION**

1. *Land use plans should be based on utilization of the following techniques and implementation devices which can have a material impact on energy efficiency:*
  - a. *Lot size, dimension, and siting controls;*
  - b. *Building height, bulk and surface area;*
  - c. *Density of uses, particularly those which relate to housing densities;*

The Site is well suited for a residential designation because it represents the reuse of a large vacant parcel along a high-capacity transportation corridor. The proposed density range will be in conformance with the City's projected overall density goal ensuring an efficient use of land and energy resources. Similarly, the commercial designation will be appropriate since locating these uses directly adjacent to a high-capacity transportation corridor is the most efficient way to provide goods and services to the general public.

The location of the site along Commercial Street SE, a major arterial, and the availability of public transit and bicycle transportation near the site make the site accessible and serve to reduce the energy needed to reach the site. These factors result in the site being consistent with the energy conservation requirements of Goal 13, Energy Conservation.

The proposed plan change considers and accommodates as much as possible Goal 13 and all applicable statewide planning goals. Therefore, the City finds criterion 3 is met.

**Criterion 4: The proposed change is logical and harmonious with the land use pattern for the greater area as shown on the plan map.**

The proposed amendment is logical and harmonious with the residential and commercial land use pattern in the vicinity of the Site. Surrounding properties to the north and east are primarily developed with multi-family dwelling complexes or higher density condominium developments, while surrounding properties to the south are primarily developed with single-family dwellings or higher density condominium developments. According to testimony and the Public Works memorandum dated November 24, 2008 that is in the record, the City has purchased the property directly to the south of the subject property. The City plans to use the land as a stormwater detention facility and flood control basin for the surrounding area and potentially the Southeast Salem region. Further south and west, beyond the City-owned property, development primarily consists of condominiums and single-family dwellings. The proposed residential designations encourage development consistent with the surrounding neighborhood, as the neighborhood is developed under similar zoning designations. A master planned adult living community would include a progression of housing types from detached single-family dwellings to an assisted care facility. This type of development is in character with the surrounding residential neighborhood and would provide an opportunity for elderly residents in Salem to live in a community where they can "age-in-place" rather than being required to move to accommodate their changing needs.

Additionally, the applicant is requesting a "Commercial" designation for 4.67 acres of the subject property located adjacent to Commercial Street SE. The commercial retail designation would permit development a small-scale neighborhood commercial node to provide complementary services to the adult living community and surrounding residential neighborhoods. Commercial retail type uses along Commercial Street SE are logical developments for the area as Commercial Street SE is characterized by retail uses to the north and south of the subject property. The South Gateway development overlay zone encourages commercial development such as this, as it will promote activities consistent with the area's role as the southern gateway into Salem.

The Site has convenient access to existing residential support services, such as Sumpter (2.2 miles), Pringle (1.1 miles), Rosedale (3.4 miles), Rolling Hills Christian (1.1), Crossler Middle (3.5 miles), and Sprague High Schools (3.7 miles). Additionally, Sunnyside/ Mildred (1.2 miles), Wiltsey (.6 miles), and Pringle School Park (1.1 miles) are in close proximity. There are a number of religious institutions in the area, including Unity of Salem (.5 miles), Rolling Hills Baptist Church (1.1 miles), Our Savior's Lutheran Church (.8 miles), Gateway Foursquare Church (.8 miles), Kingdom Hall Jehovah's Witnesses (.8 miles), and South Salem Friends Church (.9 miles). The Courthouse Athletic Club and the South Salem Senior Center are other support services located within a few tenths of a mile from the Site.

A Comprehensive Plan change from "Parks, Open Space and Outdoor Recreation" to "Single Family Residential", "Multifamily Residential" and "Commercial" would be logical and harmonious with the land use pattern for the greater area because of its location and proximity to the surrounding residential and commercial area. Therefore, the proposal satisfies criterion 4.

**Criterion 5: The proposed change conforms to all criteria imposed by applicable goals and policies of the comprehensive plan in light of its intent statements; and**

The following elements of the SACP are applicable to this request:

**3. Plan Map Designations:**

*The Comprehensive Plan Map is a representation of the Plan's goals and policies. The Plan map designations indicate various types of land use.*

*Descriptions of the Plan Map designations follows.*

*a. Residential:*

*There are three categories of residential use:*

*Single Family Residential*

*Multi-Family Residential*

*Developing Residential*

*The Single Family and Multi-Family Residential categories apply to the portion of the Salem urban area that is currently developed with housing or served by public facilities and suitable for residential development at urban densities... The Single Family and Multi-Family Residential categories of use encompass all types of housing, for example, single family detached, single family attached, manufactured homes, garden apartments, and row houses. The location, density, and style of housing is governed by the zoning code of each local jurisdiction.*

The SRC addresses the location and density of housing in residential zones. Applicant proposes to apply a residential plan designation to a site currently served by public facilities and services, as it is within the Urban Services Area. The Site's readily available access to services makes it suitable for an urban residential development with a mixture of densities and housing types.

*The intent of the residential designations is:*

*(b) To provide for the systematic conversion of sites to more intensive residential uses in accord with development policies and standards;*

*(c) To provide and maintain an overall land use pattern in the urban area that is consistent with the service capabilities of the jurisdictions;*

*(d) To ensure a compatible transition between various types of housing;*

*(e) To provide and maintain a supply of serviced, developable land throughout the urban area for residential and other urban uses, as demand warrants and service capabilities permit;*

*(f) To stabilize and protect the essential characteristics of residential environments, including natural features;*

- (g) To encourage locating residential development where full urban services, public facilities, and routes of public transportation are available;*
- (h) To permit multifamily housing developments which are consistent with development standards and growth policies to blend into the overall fabric of the Salem urban area.*

The Site is located in the Urban Services Area boundary and is fully serviced by necessary public facilities, urban services, and routes of public transportation. As implied by the zoning maps, and as evidenced by aeriels and other maps, the surrounding neighborhood is comprised of residential development at a mixture of densities and housing types. Applicant is proposing both single and multifamily residential designations, approval of which will contribute to the supply of serviced, developable land throughout the urban area. Development standards apply to each residential zone to ensure housing developments are compatible with surrounding uses and are consistent with development standards. Future development of the property will be reviewed for compliance with Salem Revised Code Chapters 68 (Preservation of Trees and Vegetation), as well as conditions of approval related to the enhancement of Wain Creek. Conversion of the Site to a residential use, from a currently vacant and unused parcel, providing both single and multi-family development is in keeping with the explicit intent of the residential plan designation.

*The criteria that will be used to develop an acceptable residential land use pattern will include the following:*

- (a) The changing social, physical, and economic factors which take place within an area and its potential long-range effect on land use.*
- (b) The desirability for redevelopment and infill within existing neighborhoods to higher densities.*
- (c) The necessity of managing urban growth over time in accordance with the ability to provide urban support services such as sewer, water, streets, and recreation, which would occur after annexation.*
- (d) The provision of a transitional land use pattern from the urbanized core to the rural area outside the Urban Growth Boundary.*
- (e) The need to ensure opportunities for a variety of housing alternatives throughout the urban area.*
- (f) The need to provide land for support services to the residents of an area, such as neighborhood shopping facilities, schools, parks, and churches.*

As previously mentioned, there have been significant changes in the provision of water resources to serve the Site. Correspondence in the record notes that water is unavailable to be secured in a manner which permits economical operation of a golf course on the site. Additionally, the City has acquired 38 acres to the south of the subject property. These changes preclude the continued operation of the golf course. Without an outdoor recreation use occupying the Site, it is necessary to determine the appropriate plan designation for future redevelopment.

Given the availability of urban services to serve the site, and the character of the surrounding neighborhood, a residential plan designation is the most appropriate land use designation for the majority of the Site. The redesignation of the site would provide an opportunity to redevelop the site and infill within an existing neighborhood with a variety of housing alternatives at various densities given the single and multifamily residential designations which are being requested. The site is well within the urban growth boundary, and ideal for residential development at urban levels. Surrounding

neighbors will have access to the trail system that will be developed on the property's 2.24 acres of open space, which will be required to link to available pedestrian trails and walks, including those that may be developed to the south when the City-owned property to the south is developed.

The Site has convenient access to existing residential support services, such as Sumpter (2.2 miles), Pringle (1.1 miles), Rosedale (3.4 miles), Rolling Hills Christian (1.1), Crossier Middle (3.5 miles), and Sprague High Schools (3.7 miles). Additionally, Sunnyside/ Mildred (1.2 miles), Wiltsey (.6 miles), and Pringle School Park (1.1 miles) are in close proximity. There are a number of religious institutions in the area, including Unity of Salem (.5 miles), Rolling Hills Baptist Church (1.1 miles), Our Savior's Lutheran Church (.8 miles), Gateway Foursquare Church (.8 miles), Kingdom Hall Jehovah's Witnesses (.8 miles), and South Salem Friends Church (.9 miles). The Courthouse Athletic Club and the South Salem Senior Center are other support services located within a few tenths of a mile from the Site. Additionally, land would be provided which could be developed into a neighborhood commercial node that would serve the surrounding neighbors.

*c. Commercial*

*The predominant use in these areas is commercial. Multifamily residential may be included where appropriate. This designation indicates commercial areas throughout the Salem urban area that provide shopping and service opportunities of the following types:*

*Community and neighborhood shopping and service facilities*

*Community and Neighborhood Shopping and Service Facilities offer a variety of goods and services. Neighborhood scale facilities include convenience goods for neighborhood residents while community scale facilities may include shopping goods for a market area consisting of several neighborhoods.*

The proposed small-scale commercial area is adjacent to, and within walking distance of the proposed residential development and the allowed uses, as conditioned, will facilitate development that can provide goods and services to surrounding residential areas in accordance with the intent statement excerpted above.

*Parks, Open Space, and Outdoor Recreation*

*The Plan shows a wide variety of parks, open spaces, and outdoor recreation sites.*

*2) Open Space*

*(a) Designed Open Space*

*(1) Capitol Mall and Wilson Park*

*(2) The campus grounds of Willamette University, Western Baptist College, and Chemeketa Community College*

*(3) The grounds of the State Fair, State Hospital, Marion County Courthouse, Salem Civic Center, SAIF Building, Pringle Tower, and Pringle Parking Structure*

*(b) Natural Open Space*

*(1) Pringle Creek, Mill Creek, Claggett Creek, and the Willamette River*

*(2) Agricultural land within the Floodplain*

*(3) Aggregate mining and directly related industrial use in the Floodplain*

The adopted Parks Systems Master Plan, contained in the record, includes inventories and maps identifying various parks, open spaces, and outdoor recreation sites. The applicant is proposing to redesignate the Site to allow for a master planned adult living community, which would incorporate designed and natural open space areas as contemplated under the comprehensive plan. In addition to the 2.24 acres of land which will retain its "Park, Open Space, and Outdoor Recreation" designation around the perimeter of the proposed development, additional land will be dedicated for drainage easements, and utilized for required stream bank enhancements and potential recreational opportunities around Waln Creek.

## **B. GENERAL DEVELOPMENT**

The third criterion for a minor Comprehensive Plan change, discussed above, requires that "the proposed plan change considers and accommodates as much as possible all applicable statewide planning goals." The proposed plan change accommodates as much as possible all applicable Statewide Planning Goals. Criterion (5) requires "the proposed change conforms to all criteria imposed by applicable goals and policies of the [Salem Area] comprehensive plan in light of its intent statements." The "General Development" Goal (B) of Section IV (Urban Areas Goals and Policies) of the Salem Area Comprehensive Plan (SACP) is "[t]o insure that future decisions concerning the use of land within the Salem urban area are consistent with the State Land Use Goals." Based on the findings provided under criterion (3), the proposed change as presented by the applicant conforms to the 'General Development' Goal of the SACP.

Policy (6), Carrying Capacity, requires the proposed development to operate within the carrying capacity of the land and the available public services. Development of the site will require connections to public facilities to provide for utility services at the developer's expense. Public facilities and services are currently available to serve the Site, in conformance with adopted Public Facility Detail Plans and the requirements of SRC Chapters 63 and 66. For example, the City currently has a 12-inch water line along Fairway Avenue SE, which is connected to a 12-inch water line in Commercial Street SE and a 10-inch water line in Madras Street SE. Similarly, the City has a 12-inch stormwater line in Fairway Avenue SE, a 10-inch line in Commercial Street SE, and lines between 10 and 15-inches in Madras Avenue SE. Additionally, 21 to 36-inch sewer lines traverse the Site.

Policy (7), Optimal Use of the Land, notes:

[S]tructures and their siting in all residential, commercial, and industrial developments to optimize the use of land....Development should minimize adverse alteration of the natural terrain and watercourses, the potential for erosion and adverse effects upon the existing topography and soil conditions.

Residential development of the site can optimize the use of the land by providing a development density that provides a range of housing types on the property. The proposed residential zoning designations would permit a mixture of densities and housing types. The use of the land can also be optimized through efficient on-site circulation, specific and limited points of access to adjacent streets, and provisions for access from alternate modes of non-motorized transportation. Transportation systems will be further evaluated and subject to the Public Works Director's approval at the time development is proposed. Optimal use of the land includes the requirement to dedicate



drainage setbacks from the identified streams on the subject property and develop within the streams' associated floodplain and identified wetlands according to SRC 140 and the applicable conditions of approval. Proposed development of the property will have no unusual effects upon the existing topography or soil conditions at the site, other than grading and site preparation that is typical for construction. The proposed use could optimize the use of the land in keeping with this policy.

#### **E. RESIDENTIAL DEVELOPMENT**

*GOAL: To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing.*

*In meeting this goal, residential development shall:*

- a. Encourage the efficient use of developable residential land;*
- b. Provide housing opportunities for Salem's diverse population; and*
- c. Encourage residential development that maximizes investment in public services.*

Applicant requests a comprehensive plan map amendment to "Residential Single-Family" and "Residential Multi-family" for approximately 37.36 acres in South Salem, thereby increasing the inventory of developable residential land in Salem. The site is located within the Urban Services Boundary and has readily available access to existing public facilities and services, thereby maximizing the investment in public services. The mixture of single and multi-family zoning designations proposed for the site allows for greater flexibility and the opportunity to provide a variety of housing opportunities for Salem's diverse population. These factors contribute the efficient use of developable residential land. Applicant is specifically proposing a master planned adult living community. The proposed development will be specially designed for 55-or-older residents. As such, this proposal represents an efficient use of residential land, creates affordable housing opportunities, assists a growing demographic, and maximizes investment in public facilities and services.

Commercial or other facilities on which residents rely are proposed by the applicant to be within walking distance of the property, as well as future retail commercial development planned for the northwest and northeast corners of Wiltsey Road and Commercial Road SE.

#### ***Establishing Residential Uses***

- 1. 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.*

The findings associated with Goal 10 are specifically incorporated herein. As the Goal 10 analysis indicates, increased residential inventory will be needed to meet forecasted demands. Regarding land distribution, infill development is logical option on this site since the site is already surrounded by established neighborhoods, which indicates it is a location appropriate for residential development, and since the site is located within the boundaries of the Urban Services Area, which means urban infrastructure is available, or is fully committed to be provided to the property. The request for both single and multi-

family designations will expand the type of residential housing units which may be developed on the site. Regarding applicant's specific proposal, the type and distribution of the dwelling units in the proposed adult living community will help meet expected population growth within the UGB. Specifically, the proposed community can address residential needs for an increasing demographic, i.e., people who are 55 or older. The type and distribution of housing units required to meet expected population growth within the Salem UGB has been considered.

*b. The capacity of land resources given slope, elevation, wetlands, flood plains, geologic hazards and soil characteristics.*

The site is relatively flat and there are no identified geologic hazards on the site according to Salem's Natural Hazards Mitigation Plan, included in the record. The site has already received an approved wetlands delineation from the Department of State Lands, which has been included in the record. The proposed development will preserve or mitigate designated wetlands pursuant to the regulations of the Oregon Department of State Lands. According to evidence submitted by the applicant, the soils on the property are primarily Waldo soils, which are typically deep and poorly drained. Waldo soils have slow permeability and their ability to retain water is limited. The downward movement of water below the top foot of soil is substantially limited due to the slow permeability. As a condition of approval, the applicant must dedicate drainage easements adjacent to Waln Creek and implement stormwater best management practices with the required modifications to the Waln Creek banks and development under the zero net rise condition. These improvements will specifically help mitigate potential adverse impacts from flood and stormwater hazards. The capacity of land resources given slope, elevation, wetlands, flood plains, geologic hazards and soil characteristics has been considered.

*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.*

Public facilities and services are currently available to serve the Site, in conformance with adopted Public Facility Detail Plans and the requirements of SRC Chapters 63 and 66. For example, the City currently has a 12-inch water line along Fairway Avenue SE, which is connected to a 12-inch water line in Commercial Street SE and a 10-inch water line in Madras Street SE. Similarly, the City has a 12-inch stormwater line in Fairway Avenue SE, a 10-inch line in Commercial Street SE, and lines between 10 and 15-inches in Madras Avenue SE. Additionally, 21 to 36-inch sewer lines traverse the Site. These existing facilities will ensure an adequate provision of public utilities to future on-site development. Applicant is also required to dedicate drainage easements allay the banks of Waln Creek, which will create additional stormwater conveyance capacity and floodwater detention potential. Municipal fire and police protection are currently provided to the site. The site is served by Commercial Street and Madras Street. DLCDC acknowledged applicant's TPR analysis and concurred that if the site were conditioned upon 3,669 ADT, the proposed zone change would not have a significant effect on transportation facilities. At the time of development, Applicant shall be required to submit a TIA which will further analyze the specific development proposed and its impacts upon, and the adequacy of the transportation facilities. The capacity of public facilities, utilities and services has been considered.

*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.*

The Site has convenient access to existing residential support services, such as Sumpter (2.2 miles), Pringle (1.1 miles), Rosedale (3.4 miles), Rolling Hills Christian (1.1), Crossler Middle (3.5 miles), and Sprague High Schools (3.7 miles). Additionally, Sunnyside/ Mildred (1.2 miles), Wiltsey (.6 miles), and Pringle School Park (1.1 miles) are in close proximity. There are a number of religious institutions in the area, including Unity of Salem (.5 miles), Rolling Hills Baptist Church (1.1 miles), Our Savior's Lutheran Church (.8 miles), Gateway Foursquare Church (.8 miles), Kingdom Hall Jehovah's Witnesses (.8 miles), and South Salem Friends Church (.9 miles). The Courthouse Athletic Club and the South Salem Senior Center are other support services located within a few tenths of a mile from the Site. Additionally, land would be provided which could be developed into a neighborhood commercial node that would serve the surrounding neighbors. Proximity to services has been considered.

*e. The character of existing neighborhoods based on height, bulk and scale of existing and proposed development in the neighborhood.*

Besides the 38 acre property located to the south, other surrounding properties are developed with residential uses consistent with allowed uses in the RS and RM-2 zones. Residential development pursuant to the development standards of the RS and RM-1 zones will be an extension of the surrounding residential uses, and therefore consistent with the character of the existing neighborhood. Adopted development standards as set forth in the Salem Revised Code apply to each zone within the City. Future development must comply with applicable development standards. A natural area open space buffer will also be required around the perimeter of the site, further ensuring compatibility with the surrounding preexisting residential development. The character of existing neighborhoods based on height, bulk and scale of existing and proposed development in the neighborhood has been considered.

*f. Policies contained in facility plans, urban renewal plans, residential infill studies and neighborhood and specific development plans.*

The Site is not located within an urban renewal area, or addressed in an adopted residential infill study or specific area development plan. As demonstrated in these findings, future development of the Site can comply with applicable public facility plan provisions. City Planning Staff has concluded that the Liberty-Boone Neighborhood Plan applies to this property. There is no Liberty-Boone neighborhood that currently exists in Salem. Applicant addresses this neighborhood plan below, in the alternative and without conceding that the plan is still in effect. The subject property is now in the South Gateway Neighborhood Association. South Gateway does not have an adopted neighborhood plan. Policies contained in facility plans, urban renewal plans, residential infill studies and neighborhood and specific development plans have been evaluated and considered.

*g. The density goal of General Development Policy 7.*

The density provisions of the enacting zones for "Residential Multi-Family" and "Residential Single-Family" were adopted to achieve an overall density in the City of 6.5 dwelling units per acre. The RM1 zoning designation allows for a minimum density of 8 units per acre and a maximum density of 14 units per acre. According to Marion County and City of Salem building permits and land division records, between January 2000 and June 2006, single-family subdivisions and planned unit developments were designed at an average density of 4.1 dwelling units per acre. Residential development on this site can conform to this density goal, thereby complying with General Development Policy 7. This density policy has been considered.

#### **Facilities and Services Location**

2. *Residential uses and neighborhood facilities and services shall be located to:*

- a. *Accommodate pedestrian, bicycle and vehicle access;*
- b. *Accommodate population growth;*
- c. *Avoid unnecessary duplication of utilities, facilities and services; and*
- d. *Avoid existing nuisances and hazards to residents.*

As conditioned, the proposed residential development will provide pedestrian, bicycle and vehicular access to two main streets, Madras Street SE and Commercial Street SE, in locations approved by the Director of Public Works and in compliance with the Salem Transportation System Plan. The site will also have access to the 38 acre property the City has purchased, located to the south. As a condition of approval, the applicant is required to provide a public access perimeter buffer, which will be developed with a pedestrian trail which shall connect with other pedestrian trails and walks. The change to "Residential Single Family" and "Residential Multi-Family" plan designations will accommodate additional housing supply which is anticipated to be needed for an increasing population in the community, especially those residents aged 55-or-older in the Salem area- see Goal 10 analysis. The Site can be served without unnecessary duplication of utilities, facilities and services as it is located within the boundary of the Urban Services Area and will be a continuation of existing uses on surrounding properties. Furthermore, identified flood hazards on the property can be safely mitigated through implementation of the conditions of approval- particularly the zero net rise condition. As the findings contained in Goal 7 indicate, residential development can feasibly avoid existing nuisances and hazards.

#### **Multi-Family Housing**

6. *Multi-family housing shall be located in areas proximate to existing or planned transportation corridors, public facilities and services:*

- a. *To encourage the efficient use of residential land and public facilities, development regulations shall require minimum densities for multiple family development zones;*

The areas proposed to be changed to a "Residential Multi-Family" designation will be developed in accordance with the density requirements of the RM1 zone which require a minimum 8 units per acre and a maximum 14 units per acre. Applicable development regulations therefore require minimum densities.

*b. Development regulations shall promote a range of densities that encourage a variety of housing types;*

The proposed area to be redesignated to "Residential Multi-Family" will be rezoned to a RM1 zone. As set forth in SRC Chapter 148, this zoning district provides for a range of densities, a minimum 8 units per acre and a maximum 14 units per acre, and variety of permitted housing types, such as apartments, condominiums, duplexes, planned unit developments and residential care facilities. Therefore, applicable development regulations promote a range of densities that encourage a variety of housing types.

*c. Multiple family developments should be located in areas that provide walking, auto or transit connections to:*

- (1) Employment centers;*
- (2) Shopping areas;*
- (3) Transit service;*
- (4) Parks;*
- (5) Public buildings.*

The proposed area for multi-family development will have access to Madras Street as well as to Commercial Street, which is designated a Major Arterial in the Salem TSP. According to the Salem Transportation System Plan, this major arterial is currently improved to full urban standards with sidewalks and bike lanes. These street improvements provide safe and efficient access from the Site to employment centers, shopping areas and parks. Additionally, transit service is provided at the corner of Commercial Street and Wiltsey via Route 1, *South Commercial*, approximately 1000 feet from the site. As conditioned, eventual street connections and internal street systems shall be approved by the Director of Public Works, consistent with the Salem Transportation System Plan. Furthermore, the applicant will be required to construct a pedestrian trail in its required perimeter buffer, which will run adjacent to the commercial retail portion of the property which may be developed with commercial uses.

Commercial or other facilities on which residents rely are proposed by the applicant to be within walking distance of the property, as well as future retail commercial development planned for the northwest and northeast corners of Wiltsey Road and Commercial Road SE.

#### ***Circulation System and Through Traffic***

*7. Residential neighborhoods shall be served by a transportation system that provides access for pedestrian, bicycles, and vehicles while recognizing the neighborhoods physical constraints and transportation service needs:*

- a. The transportation system shall promote all modes of transportation and dispersal rather than concentration of through traffic;*
- b. Through traffic shall be addressed by siting street improvements and road networks that serve new development so that short trips can be made without driving;*
- c. The transportation system shall provide for a network of streets fitted to the terrain with due consideration for safety, drainage, views, and vegetation.*

The proposed residential development will provide pedestrian, bicycle and vehicular access to two main streets, Madras Street SE and Commercial Street SE, and an

internal transportation system that provides a network of streets fitted to the terrain, subject to the approval of the Director of Public Works and in compliance with the Salem Transportation System Plan. In the record, applicant identified 3 desired access points, which would promote traffic dispersal. The proposed commercial retail zone would permit a commercial node to be developed adjacent to the residential development on the site to serve current and future residents of this neighborhood, thus providing the opportunity to make short trips without driving. The required open space buffer will be developed with a trail system, which is required to connect to other pedestrian amenities where possible, making pedestrian travel a possibility. All of these improvements will ensure safe and efficient multi-modal transportation throughout the residential and commercial developments. As conditioned and at the time future development is proposed, the above transportation goals shall be provided for.

### **Alternative Housing Patterns**

#### *9. Residential Development Patterns*

*Subdivision and zoning regulations shall provide opportunities for increased housing densities, alternative housing patterns, and reduced development costs. Development regulations shall promote residential development patterns that encourage:*

- a. The use of all modes of transportation;*
- b. Reduction in vehicle miles traveled and length of auto trips; and*
- c. Efficiency in providing public services.*

The City has subdivision and zoning regulations that provide opportunities for increased housing densities, such as multifamily and planned unit development density allowances; alternative housing patterns, such as apartments, condominiums, duplexes, and planned unit developments; and reduced development costs, such as promoting infill development where public services can be provided efficiently. The subdivision review process will ensure compliance with all applicable subdivision and zoning regulations, which will encourage increased housing densities, such as those found in the multifamily zone; multi-modal transportation options, such as encouragement of pedestrian and bicycle travel; and alternative housing patterns, such as those permitted uses found in the RM zones. As conditioned, local street connections shall be in locations approved by the Director of Public Works and in compliance with the Salem Transportation System Plan. The site is already located adjacent to a major arterial, Commercial Street, which is fully improved with sidewalks and bicycle lanes. The site is also located approximately 1000 feet from the Route 1 transit stop. The pedestrian trail which will be constructed will encourage short pedestrian travel to the commercial areas located on Commercial Street. The site is located within the boundary of the Urban Services Area, which means urban infrastructure is already provided or is fully committed to be provided to the site. Subsequent processes, such as subdivision and site plan review, will ensure the proposed development complies with specific applicable development regulations.

As noted, the site is designated "Parks, Open Space and Outdoor Recreation" because it formerly contained a golf course. The goal of this designation is to provide for the recreation needs of the Salem urban area through the acquisition and development of adequate parks and recreation facilities. The applicant proposes a Comprehensive Plan change to Commercial, Single Family Residential and Multifamily Residential.

For these reasons the proposal does not affect the Residential Development goal.

#### **G. COMMERCIAL DEVELOPMENT**

*GOAL: To maintain and promote the Salem urban area as a commercial center for the Marion-Polk Community Shopping and Service Facilities*

The applicant addressed aspects of economic development under Criterion 3 Statewide Planning Goal 9, Economic Development. Those findings are specifically incorporated as if set forth herein. The applicant addresses the SACP goals and policies for Commercial Development under Criterion 5.

*4. Community shopping and service facilities shall be located adjacent to major arterials and shall provide adequate parking and service areas. Land use regulations shall include provisions for siting and development which discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets.*

Applicant proposes to redesignate 4.67 acres of the Site along Commercial Street from Parks, Open Space and Outdoor Recreation to Commercial, which is appropriate given Commercial Street is designated a Major Arterial in the City's Transportation System Plan. The commercial development will be reviewed under the City's site plan review process to ensure that the site is of adequate size to accommodate necessary parking and landscaping improvements. The development standards of the CR zone, which will be reviewed through the site plan review process, include provisions to encourage commercial developments to site along major thoroughfares to discourage major customer traffic from filtering through residential streets. As the site is located adjacent to Commercial Street, there should be no reason for commercial traffic to filter through any residential streets to access this portion of the property. As mentioned, any future development of the Site will be reviewed for compliance with the City's current siting and development standards as applied through the site plan review procedures.

*Neighborhood and Community Shopping and Service Facilities*

*5. Unless the existing development pattern along arterials and collectors commits an area to strip development, new commercial development shall be clustered and located to provide convenience goods and services for neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods.*

The 4.67 acre portion of the Site being reserved for commercial development will not be committed to a strip style development pattern. Rather, in keeping with the Site's current use, any proposed redevelopment will complement the cluster of commercial uses located across Commercial Street and will provide opportunities for further development of offices and services to serve the surrounding residential neighborhood. The pedestrian trail which applicant is required to provide shall abut the commercial portion of the property, further enhancing accessibility to the commercial site from the residential developments.

*8. Buffer strips from residential uses shall be provided for all commercial development.*

As a condition of approval, any future development of the Site will be reviewed through the City's site plan review procedures for conformance with the City's landscape and buffer requirements set forth in SRC Chapter 132.

#### **J. TRANSPORTATION**

*GOAL: To provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.*

##### *Salem Transportation System Plan*

*1. The Salem Transportation System Plan shall contain goals, objectives, policies, plan maps, and project lists that will guide the provision of transportation facilities and services for the Salem Urban Area...*

*2. The Salem Transportation System Plan shall be updated, as necessary, to remain consistent with other City of Salem, regional, and statewide plans.*

The City adopted a Transportation System Plan (TSP), included in the record, that contains goals, objectives, policies, plan maps, and project lists that guide the provision of transportation facilities and services for the Salem Urban Area. The applicable policies of this plan have been excerpted below, followed by proposed findings demonstrating compliance therewith.

##### **TSP STREET SYSTEM ELEMENT**

*GOAL: Provide a comprehensive system of streets and highways that serves the mobility and multimodal travel needs of the Salem Urban Area.*

##### **OBJECTIVE NO. 1**

*Develop a comprehensive, hierarchical system of streets and highways that provides for optimal mobility for all travel modes throughout the Salem Urban Area.*

##### **Policy 1.6 Local Access and Circulation**

*The City's street system shall contain an interconnected network of local streets that provide property access and neighborhood circulation.*

The subject property is bordered by a major arterial (Commercial Street SE) to the northeast, and a local street (Madras Street SE) to the north and northwest. Public transit service is available to the property by Route 1, Commercial Street. The transit and bicycle facilities on Commercial Street SE provide transportation alternatives to the private vehicle to reach the subject property.

The subject property in its current use is adequately served by the existing street system; however, the property does not have adequate connectivity to the existing public street system. The Salem TSP, Local Street Connectivity Element Goal is to provide an interconnected local street system that allows for dispersal of traffic and encourages a mix of travel modes. A well-connected street network provides for safe, direct, and convenient access by automobile, bicycle, and pedestrians. The applicant shall provide street connections through the subject property consistent with the Salem Transportation Systems Plan and subject to approval by the Director of Public Works. Conditions 5 and



6 address connectivity issues and allow the proposal to meet this criterion. In addition, site specific access and connectivity issues will be determined at the time of development.

**OBJECTIVE NO. 5**

*A street system that is improved to accommodate travel demand created by growth and development in the community.*

The applicant shall provide a street connection to Commercial Street SE in an alignment with the Courthouse Athletic Club driveway located across Commercial Street SE from the subject property. No direct driveway access shall be allowed to Commercial Street SE. As conditioned, the applicant must 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 Systems Plan.

*Policy 5.1 Traffic Impact Analysis Requirements*

*The City shall require Traffic Impact Analyses as part of land use development proposals to assess the impact that a development will have on the existing and planned transportation system. Thresholds for having to fulfill this requirement and specific analysis criteria are established in the City of Salem Street Design Standards.*

The City requires a Traffic Planning Rule Analysis (TPR) to evaluate the increase in traffic from the proposed Comprehensive Plan change as most Comprehensive Plan/Zone Changes intensify the land use that will lead to an increase in traffic and must be evaluated and mitigated to satisfy the Transportation Planning Rule (TPR).

Salem Public Works, Development Services Division commented that the applicant shall provide a traffic analysis identifying adequate street connectivity within the development and to the existing public street system that provides for a safe, orderly, and efficient circulation of traffic into, through, and out of the development.

The TPR analysis from Associated Transportation Engineering & Planning, Inc. (ATEP) that found with zoning restrictions and a trip cap of 3,669 average daily trips (ADT), the proposed amendment would not significantly impact the area transportation facilities. The applicant's TPR analysis concluded that the proposed Comprehensive Plan/zone change would not have a significant impact as the proposed uses would generate fewer trips than could be allowed by uses permitted under the current zoning.

The City will require a TIA to evaluate the surrounding transportation system and require any necessary mitigation as part of the development. The City will require a detailed TIA for the development prior to subdivision or any new development on the property.

*Policy 5.2 Exactions Required of Development*

*The City may require new development to make site-related, right-of-way dedication and transportation system improvements that are identified through the Traffic Impact Analysis process and other Code requirements.*

As mentioned, the City will require a TIA to evaluate the surrounding transportation system and require any necessary mitigation as part of the development. As part of the analysis of the TIA, the City may require new development to make transportation

system improvements. The applicant shall complete any identified improvements to the transportation system prior to development of the subject property.

There are bicycle system and pedestrian system elements of the Salem TSP that contain goals, objectives and policies. Pedestrian connections will be provided from the public sidewalks through the subject property as part of the development of the property and connected into the trail system which is required to be constructed within the perimeter buffer. When improvements are made to the transportation system, bicycle and pedestrian system goals, objectives and policies can be met. These will be further evaluated at the time development is proposed through either the subdivision or site plan review processes.

***TSP LOCAL STREET CONNECTIVITY ELEMENT***

*GOAL: To provide an interconnected local street system that allows for dispersal of traffic and encourages a mix of travel modes.*

***OBJECTIVE NO. 1***

*A local street circulation pattern that provides access to property and connections to Collector and Arterial streets, neighborhood activity centers, and emergency access.*

*Policy 1.1 Connectivity to the Street System and Neighborhood Activity Centers*  
*Applicants submitting preliminary development plans shall provide for local street connections toward existing or planned streets and neighborhood activity centers located within one-half-mile of the development. Street alignments should be sensitive to natural features, topography, and layout of adjacent development.*

As stated previously, the Site maintains access to two fully improved public streets; Madras Street and Commercial Street which is designated as a Major Arterial. At the time future development is proposed, the Site will be required to connect the internal street network to the existing public street system subject to the approval of the Director of Public Works, consistent with the Salem Transportation System Plan, thereby providing connectivity with the existing streets and neighborhood activity centers located within one-half mile of the Site. The Applicant anticipates that there will be 3 access points to connect the development to the existing public street system. Access will be developed consistent with the conditions of approval. Applicant can satisfy this policy at the time it submits preliminary development plans.

***Multimodal Transportation System***

*4. The transportation system for the Salem Urban Area shall consist of an integrated network of facilities and services for a variety of motorized and nonmotorized travel modes.*

Salem's Transportation System Plan, contained in the record, provides for the implementation of an integrated network of facilities and services for a variety of motorized and nonmotorized travel modes. The Transportation Plan contains an inventory of these facilities. The Site is currently served by transit, pedestrian sidewalks and bike lanes, all of which encourage the use of alternative modes of transportation. The future development of the Site will be required to have a network of internal streets with public sidewalks, subject to the approval of the Public Works Director and in

compliance with the Salem Transportation System, and private pathways will ensure connectivity to the existing multimodal transportation options available on Commercial Street. Applicant is required to provide a linear trail within the perimeter public access buffer, with the trail connecting with external pedestrian trails and walks where possible.

#### *Connectivity and Circulation*

*5. The vehicle, transit, bicycle, and pedestrian circulation systems shall be designed to connect major population and employment centers in the Salem Urban Area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.*

The Site maintains access to two fully improved public streets; Madras Street and Commercial Street. Any future development of the Site will be required to link the internal street network to the existing public street system, thereby providing connectivity with the surrounding neighborhood, subject to the approval of the Public Works Director. Transit service is available within 1000 feet of the property via Route 1, South Commercial. The commercial retail designation will permit the development of a commercial node which could serve the current and future residents of the neighborhood. The applicant's required public access area and trail will run adjacent to this commercial area.

#### *Supportive of Land Use Plan Designations and Development Patterns*

*6. The provision of transportation facilities and services shall reflect and support land use designations and development patterns as identified in the Salem Area Comprehensive Plan. The design and implementation of transportation facilities and future travel demand, residential densities, retail, and employment centers.*

Salem's Transportation System Plan implements and inventories the City-wide provision of transportation facilities. The Transportation Planning Rule Analysis completed for this proposal, included in the record, concludes the number of trips to be generated in a development under the proposed plan designations will not exceed the number of trips to be generated by reasonably expected development under the existing "Parks, Open Space and Outdoor Recreation" and "Residential Multi-Family" plan designations. This analysis took into account residential development under the RS and RM1 zones, along with commercial development under the commercial retail designation. With the trip cap condition limiting total trips generated on this site to 3,669 ADT, the functional classification of the surrounding streets reflects and supports the proposed land use designations.

*7. Local governments shall encourage the expansion of transit services throughout and beyond the Salem Urban Area, especially to areas of increased residential densities, major commercial concentrations, and large institutional and employment centers.*

The Site is currently served by transit service at the corner of Wiltsey Avenue and Commercial Street via *Route 1, South Commercial*, which will provide multimodal transportation options to future residents and users of the commercial node. The increased residential densities and commercial concentrations proposed by applicant provides justification to maintain and expand transit service serving this part of the Salem Urban Area.

### *Growth Management*

*9. The construction of transportation facilities shall be timed to coincide with community needs, and shall be implemented in such a way as to minimize impacts on existing development.*

A TIA is required of any development on the site as a condition of this approval. This analysis will identify what improvements to transportation facilities are required in connection with the specific development proposals applicable to the site. Since in this case, the impacts of the proposed development cause a potential need for transportation improvements, construction of any transportation facilities will be timed to coincide with construction of the proposed development. Any necessary mitigating transportation improvements will be required as a condition of future development approval (see next policy). At the time construction is required, the implementation can be evaluated in such a way as to minimize impacts on existing development.

*10. Improvements to the transportation system, in addition to those in or abutting a development, may be required as a condition of approval of subdivisions and other intensifications of land use.*

As stated previously, the Transportation Planning Rule Analysis completed for this proposal concludes the number of trips to be generated in a development under the proposed plan designations will not exceed the number of trips to be generated by a development under the existing "Parks, Open Space and Outdoor Recreation" plan designation. With a condition that the total trips generated on this site will not exceed 3,669 ADT, the functional classification of the surrounding streets supports the proposed land use designations. At the time of future development, a traffic impact analysis will be required to determine if any mitigating transportation improvements are necessary.

### *Public Safety*

*16. The rapid and safe movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the transportation system.*

The Site currently maintains frontage along two public rights-of-way; Madras Street and Commercial Street. Access points off of these rights-of-way, approved by the Director of Public Works, will provide primary vehicular access to the Site. Additionally, the applicant entered into a contractual agreement with an adjacent property owner to provide secondary emergency access to the golf course property. As a portion of the consideration for the sale of the adjacent southern parcel to the City, Applicant retained the right to use the City-owned parcel for emergency access should some government authority require it in connection with future development of the Subject Property. The subdivision review process (SRC 63) and site plan review procedures (SRC 163) ensure that the above transportation system policies are implemented into proposed development.

### *Neighborhood Livability*

*20. Transportation facilities shall be designed and constructed to minimize noise; energy consumption; neighborhood disruption; economic losses to the private or public*

*economy, and social, environmental, or institutional disruptions; and to encourage the use of public transit, bikeways, and walkways.*

The addition of additional pedestrian connections to and through the subject property will encourage people to walk throughout the property. The commercial retail zone will allow the opportunity for a commercial node to be developed adjacent to the site. Access to public transit is an important component to neighborhood livability, which the proposal can create with development of their internal street system, thereby encouraging the use of public transit by future residents of the property. Currently, access to Route 1, South Commercial serves the area with a transit stop located immediately in front of the subject property.

#### *Aesthetics and Landscaping*

*21. Major gateway points into the city enhance the impression of the area's beauty and vitality. The Salem Transportation System Plan shall identify major gateway points into the City of Salem.*

The Salem Transportation System Plan identifies major gateway points into the City of Salem (see Street System Element). Additionally, the Site is located within the South Gateway Overlay Zone, which applies design standards to development along the Commercial Street corridor to ensure enhancement of the City's beauty and vitality. Provisions of the overlay zone primarily apply to the proposed commercial node. Applicable gateway design standards will be applied at the time of Site development.

#### **K. OPEN SPACE, PARKS AND RECREATION**

*GOAL: To provide for the recreation needs of the Salem urban area through the acquisition and development of adequate parks and recreation facilities.*

#### *Park Acquisition and Development*

*1. Public parks shall be acquired and developed as recommended by the Comprehensive Park System Master Plan. Early acquisition of park sites shall be considered in anticipation of future needs and to minimize land costs as described in the Urban Growth Management Program.*

The City has adopted a Comprehensive Park System Master Plan inventorying recreation needs and opportunities. Although the Master Plan does not specifically identify the Site as meeting a recreational need for the South Salem area, it does identify a need for a neighborhood park facility in the vicinity of the Site, although not within the service area of the site. The City may acquire and develop this park utilizing various techniques like fee acquisition, pedestrian access easements, planned unit developments and the urban growth management program. The recreational requirement for a neighborhood park in the vicinity of the Site may be achieved through fee acquisition or the incorporation of parkland into a master planned development, such as the one proposed by applicant. At a minimum, applicant will retain approximately 2.24 acres of natural area open space, developed with a trail, in addition to the area reserved for stream bank enhancements and drainage easements. This open space area could provide additional recreational opportunities for current and future residents of the neighborhood. Another opportunity will be for the Site to directly link into any

potential recreational opportunities that could be developed on the 38 acre City-owned property adjacent to the south, according to the Public Works memorandum in the record dated November 24, 2008.

The subject property, which had been a golf course for over fifty years, has always been private property. It has never been public open space and if the Comprehensive Plan Change/Neighborhood Plan Change/Zone Change is not approved, it will still be private property that can be developed consistent with the PA (Public Amusement) zoning.

*Priority Acquisition 2. Priority shall be given to acquiring and developing neighborhood, community, and large urban parks. Exceptions will occur in isolated sub-neighborhood units where removing access barriers or providing pedestrian/bicycle linkages to existing parks will be given first priority in satisfying any given service area's recreational needs.*

The City's adopted Comprehensive Park System Master Plan identifies a recreational need for a neighborhood park in the vicinity of the Site. The City may acquire and develop this park utilizing various techniques like fee acquisition, pedestrian access easements, planned unit developments and the urban growth management program. In accordance with the above Comprehensive Plan policy, priority will be given by the City to acquiring and developing a neighborhood park to serve the South Salem area. According to the golf course study commissioned by the City Council, included in the record, acquiring or maintaining the Site in its current designation as an outdoor recreation use is not warranted.

More generally related to parks, open space and outdoor recreation, re-designating the subject property as proposed will not have an adverse effect on the ability to provide a variety of open space and outdoor recreation opportunities in the city, within the UGB, or in this local area; especially since the course is no longer available. The applicant is required to retain approximately 2.24 acres of natural area open space that will be developed with a linear trail system or other pedestrian amenities. This open space will provide recreational opportunities for future residents of the subject property, as well as existing, neighboring properties. This natural area open space will be preserved for public use and recreation.

Testimony was received regarding the loss of open space, as the property has a Comprehensive Plan designation of Parks, Open Space, and Outdoor Recreation. The SACP describes the different facilities that make up each designation. It states the different types of parks (neighborhood, community, school, etc.) and open space (historic areas, special use facilities, and natural resources areas) that are to be managed by the City. It divides Open Space into two distinct categories- Designed Open Space (Capitol Mall, Wilson Park, Willamette University, etc.) and Natural Open Space (Pringle Creek, Mill Creek, Willamette River, etc.). It states that golf courses are the primary example of Outdoor Recreation use in the Salem Urban Area.

The subject property, which had been a golf course for over fifty years, has always been private property. It has never been public open space and if the Comprehensive Plan Change/Neighborhood Plan Change/Zone Change is not approved, it will still be private property that can be developed consistent with the PA (Public Amusement) zoning.

#### **N. SCENIC AND HISTORIC AREAS, NATURAL RESOURCES AND HAZARDS**

*GOAL: To conserve open space, protect natural, historic, cultural and scenic resources, and to protect life and property from natural disasters and hazards.*

*Waterways 5. Waterways shall be protected, preserved, and maintained as drainage courses and scenic, recreational, and natural resources. These characteristics shall be considered during the development review process. Public access to waterways for maintenance purposes should be provided.*

The goal specifically notes that consideration of the characteristics will be during the development review process. As conditioned, the stream flows will be managed and protected for flood control, riparian enhancement and stormwater management. The applicant is required to enhance the stream bank areas, dedicate drainage easements, and implement best management practices for stormwater management, which will help enhance the scenic and functional quality of the waterway, as well as water conveyance capacity. Applicant has also reached an agreement with the City whereby Applicant's Site may be developed in such a way so that storm and flood water are routed and detained on the City property adjacent to the south. Applicant will maintain drainage easement access to Waln Creek to ensure it retains its functional capacity. As noted, any further considerations concerning protection, reservation and maintenance of Waln Creek as a drainage course and scenic, recreation, and natural resource will be reviewed during the development review process, with consideration to the specific development the owner proposes at that time. At the least, 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 the applicable conditions of approval.

*Wildlife Habitats 6. Identified significant wildlife habitats shall be protected and managed in accordance with State wildlife management practices. The importance of riparian vegetation as wildlife habitat shall be considered during the development review process.*

The goal specifically notes that consideration of riparian vegetation will be during the development review process. The Site has not been identified for protection as a fish or wildlife area/habitat in any locally adopted fish and/or wildlife management plan, although Battle Creek, which flows through the parcel adjacent to the south of the Site, has been identified as trout habitat. However, in recognition of the importance of riparian vegetation as wildlife habitat, the applicant is exploring the possibility of partnering with the City in a pilot stream banking program for riparian restoration and enhancement. Thus far, this has entailed working with City Environmental Services and Natural Resources Staff to prioritize areas of restoration on-site and to develop a conceptual budget and timeline. Applicant has also been in preliminary discussions with the Pringle Creek Watershed Council and the Marion Soil and Water Conservation District to investigate other potential riparian and stream enhancement options on the Site. Regardless, applicant is required to enhance stream bank areas in accordance with the condition of approval set forth. 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 the applicable conditions of approval during the development review process.

*Flood Hazards 7. Development in the floodplain shall be regulated to preserve and maintain the capability of the floodplain to convey the flood water discharges and to minimize danger to life and property.*

Development in the floodplain is regulated under SRC 140. Flood Insurance Rate Map Panel 657 of 1150 identifies special flood hazard areas applicable to the Site. A portion of the Site is located within the 100 year floodplain. A letter of map revision shall be submitted to FEMA, in accordance with the applicable condition of approval. This could adjust the current floodplain on the property. Any future development of the Site will conform to the City's adopted floodplain development provisions found in SRC Chapter 140. These provisions require, among other things, that the lowest floor elevation of a residential structure be constructed no less than one-foot above base flood elevation. Conformance with these provisions will ensure compliance with the above Comprehensive Plan Policy. Beyond those development restrictions, applicant must develop the property under the zero net rise condition of approval requiring compensatory flood storage to be provided for any fill placed within the floodplain. Additionally, the City's acquisition of the 38 acre property to the south of the Site for storm and flood water management provides a tremendous benefit to the area. Based on Public Works Staff testimony, the City purchased this 38 acre property based on the potential to detain an increased capacity of stormwater. New development on the Site will have the right to channel water directly into this new facility, which should promote the safe and efficient management of storm and floodwater. The required drainage easements restrict development adjacent to the creek which will help convey stormwater during these events. Additionally, correspondence with FEMA representatives which has been submitted into the record note that this acquisition could help the City of Salem achieve additional discounts on flood insurance premiums. According to the Statesman Journal article in the record dated September 10, 2008, Salem recently qualified for a 10 percent discount on premiums after FEMA accepted Salem into a voluntary program that evaluates and rates the City's efforts towards more effective flood management. Factors such as open space preservation and additional flood control measures help the City move towards additional decreases in flood insurance premiums. Any development in the floodplain shall be regulated under SRC 140 and in accordance with the conditions of approval.

Testimony and analysis was received from applicant, applicant's engineer, and opponents that centered on the flooding in the area, specifically the 1996 flood, the potential for future flooding if the subject property is developed, and the applicant's ability to detain the water from the proposed development and from upstream developments.

This application seeks to change the Comprehensive Plan, Neighborhood Plan, and zoning designation. The application review does not encompass review or approval of a development plan or development standards. As identified by Public Works, there are subsequent processes in place to review the design and development requirements of any future project. The applicant will be required to go through the Site Plan Review process or a Subdivision process, both of which will require the application to submit more detailed plans to all of the relevant City departments. If the applicant cannot meet the City requirements, permits for the proposed development will not be issued. Public Works staff prepared a memorandum, dated November 24, 2008 and included in the record, to the Planning Commission in response to questions that were asked regarding the timeline for the City's review of flood control and stormwater detention. In summary, the applicant will be required to go through the Site Plan Review process for



commercial or multi-family development. Residential development will be reviewed through the subdivision process. Either of these land use processes will identify the downstream stormwater deficiencies that the developer's engineer needs to analyze. The developer's engineer will perform engineering studies that the City staff will then analyze. The City's review will ensure conformance with the applicable Codes and Design Standards for all of the utility and infrastructure needs, including storm drainage and how the design will address upstream stormwater collection, downstream stormwater disposal, and onsite master plan, detention, and water quality requirements.

As noted in the original staff report for the Planning Commission, the City has agreed to provide on-site detention on the City-owned portion of the property. As outlined in the Public Works memorandum, the City plans to undergo a master planning process for the 38 acres which will include environmental assessments, storm drainage, capacity studies, and community outreach. The facilities will eventually be designed and constructed as specified in the Capital Improvements Program and budget.

As noted by Public Works staff, the former golf course was not designed as a flood detention area and, regardless of the zoning, the development of this property will have to mitigate the drainage created by any new impervious surface and meet the FEMA requirements. Bioengineering and habitat restoration, as required by the approval, will help the creek function better to control the water flow.

*Wetlands 11. Salem urban area wetlands shall be identified, inventoried, and documented as to their significance as a resource. Such activities shall be coordinated among the jurisdictions. Appropriate comprehensive plan policies and development regulations shall be adopted by the next periodic review. In the interim development in areas identified as wetlands shall be permitted only to the extent granted by State and Federal regulatory agencies.*

The City adopted a Local Wetlands Inventory and corresponding notification requirements to ensure Department of State Lands, the regulating agency for wetland development, is aware of any local land use action having potential adverse impacts on a designated wetland. This inventory identifies inventories and documents the resource. In accordance with the provisions of SRC 126, Applicant contracted with Tim Acker of Applied Technologies to complete a wetland delineation. As evidenced by the letter in the record, the delineation received concurrence from the Oregon Department of State Lands. In the event the wetlands may be impacted by future development, the applicant will be required to submit necessary Removal-Fill Permits to the Department of State Lands for review and consideration of potential site mitigation.

#### **NATURAL HAZARDS MITIGATION PLAN**

The *Salem Natural Hazards Mitigation Plan* (December 2002) focuses on three principal goals: (1) protect lives; (2) protect existing development; and (3) guide future development that reduces the hazard impact. The applicant acknowledges the goals and objectives of the *Mitigation Plan* and has addressed the mitigation measures outlined in the *Mitigation Plan*.

**Goal 2.** *Existing properties should be protected.*

**Objective 2.3.** *Maintenance programs, such as drainage system inspection and trash/debris removal, should be continued to reduce the potential for flooding and other problems.*

The City's Stormwater Master Plan, included in the record, highlights operations and maintenance goals and procedures for the City's stormwater management program. The removal of key blockages in the on-site stormwater conveyance system will help alleviate potential flood hazard impacts to surrounding property owners. Salem Public Works has a maintenance program in place to address stream blockages. Further analysis of these blockages as part of the stormwater infrastructure analysis, described in the Public Works memorandum dated November 24, 2008 and included in the record, will be completed at the time of future site development. The City's acquisition of the property to the south, and eventual master plan and development of that property, will also help further reduce the potential for flooding and other problems in the area, by providing additional analysis of the area and storage for excess water that occurs during high water events. As conditioned, applicant must make those improvements as identified in the Stormwater Master Plan. Additionally, applicant's required drainage easements and stream bank enhancement will contribute to those operations and maintenance goals and procedures listed in the City's Stormwater Master Plan.

**Goal 3.** *Future development should be protected.*

**Objective 3.1.** *Land use plans and regulations (including Urban Growth Boundary and Urban Reserve Area delineations, if adopted) should direct development away from site-specific natural hazards (including flooding and landslides, the primary hazards of concern).*

**Objective 3.2.** *Where areas are not set aside from development, appropriate investigations and protective measures should be required before development plans are approved.*

**Objective 3.4.** *Proposals for new subdivisions and other major developments should continue to be reviewed to ensure that they do not cause problems to other properties due to stormwater runoff, inappropriate vegetation, inadequately stored hazardous materials, improper excavating and filling, or other such conditions. Clustering of uses in non-hazard (or less hazardous) areas and transfer of development rights are other forms of hazard mitigation.*

There are no areas located on the Site that have been designated as a floodway. This could change once FEMA reviews applicant's letter of map revision. While development is generally allowed in the floodplain, subject to certain development restrictions, additional standards are set forth in SRC 140 which makes development in the floodplain more onerous than typical site development, thereby encouraging development in non-floodplain areas. In accordance with the above Policies, future development review of the Site located within the 100-year floodplain through the subdivision review procedures will analyze conformance to the City's adopted floodplain development provisions found in SRC Chapter 140. These provisions require, among other things, that the lowest floor elevation of a residential structure be constructed no less than one-foot above base flood elevation. Beyond these development restrictions, applicant is required to dedicate drainage easements, enhance the stream banks of Waln Creek, and develop the property pursuant to a zero net rise, so that any fill which is placed in the floodplain is compensated for elsewhere. Conformance with these provisions and conditions will ensure development of the Site does not adversely impact surrounding properties. Subsequent land use processes for future development, such

as subdivision (SRC 63) and site plan review (SRC 163), will be required as noted in the Public Works memorandum dated November 24, 2008 and included in the record. As the memo notes, analysis will be undertaken to ensure proposed development conforms to the development requirements. If the proposed development does not conform and cannot be developed safely, permits will not be issued.

#### *4.1.1 Prevention*

*Preventive measures are designed to keep the problem from occurring or getting worse. They attempt to ensure that future development is not exposed to damage by one or more hazards. Preventive measures are usually administered by planning, building code enforcement, and/or zoning agencies, or they can be taken voluntarily (providing citizens have adequate information).*

The City adopted floodplain development provisions, in SRC 140, which include preventive measures to be implemented at the time of development. These provisions require, among other things, that the lowest floor elevation of a residential structure be constructed no less than one-foot above base flood elevation. Beyond these development restrictions, applicant is required as a condition of approval to dedicate drainage easements, enhance the stream banks of Wain Creek, and develop the property pursuant to a zero net rise, so that any fill which is placed in the floodplain is compensated for elsewhere. Implementation of these preventative measures will reduce potential flood hazard risk to current and future residents.

#### *4.1.2 Land Use Planning*

*While it must be addressed far in advance of actual new development or redevelopment, effective land use planning can lead to an understanding of the existence of natural hazards, the risks associated with them and the determination of methods to minimize future losses through various techniques such as clustering development to avoid hazard areas. Moreover, "land re-use" projects (i.e., redevelopment) can also provide opportunities to improve mitigation by adjusting current land uses and requiring building codes and standards for new buildings or the rehabilitation of existing ones. Oregon state law requires every city and county to adopt a comprehensive plan and land use regulations. Once the state (i.e., DLCD) "acknowledges" (i.e., approves) a plan's consistency with statewide goals, Oregon law then deems many land development decisions "ministerial" and, therefore, not subject to procedural requirements. Local plans are reviewed periodically by DLCD.*

The City has identified natural hazards in its Natural Hazards Mitigation Plan, and has promulgated appropriate rules to minimize future losses associated with development in these areas. For example, SRC 140 provides development provision specifically addressing development in the floodplain.

The subject proposal constitutes a land re-use project providing opportunities to improve flood hazard mitigation on-site. The existing outdoor recreation use was established more than 50 years ago, prior to the establishment of the National Flood Insurance Program and designation of special flood hazard areas. As such, the on-site waterways were not developed or managed to reduce flood hazards on-site or to surrounding areas. The City has purchased the 38 acres to the south of the Site specifically for the purpose of storm and flood water management.

Redevelopment of the Site will provide opportunities to help alleviate existing flood hazard impacts. Applicant will be required to submit a letter of map revision to FEMA, which could reclassify floodplain areas on the property. As previously mentioned, through application of the conditions of approval, the City's Stormwater Management Plan, riparian protection provisions (SRC 68) and floodplain development provisions (SRC 140), the potential flood hazard impacts will be properly mitigated. According to testimony and the Public Works memorandum, applicant has obtained the right to detain storm water on the City-owned property to the south. Applicant will dedicate drainage easements, enhance the stream banks of Waln Creek, and develop pursuant to a zero net rise condition. The development of this City property should mitigate the impacts storm and flood waters have historically had on this Site.

#### *4.1.3 Zoning*

*Zoning laws and ordinances regulate development by dividing the community into zones or districts and by setting development criteria for each district. Zoning decisions may dedicate areas for public use, conservation, agriculture, commercial use, and cluster development or planned unit development to control construction. Density of development can also be regulated by hillside control formulae, clustering development away from hazard areas, and transferring development rights from hazardous areas to safer areas.*

A portion of the Site is located within the Floodplain Overlay Zone, which regulates development for purposes of reducing the potential adverse impacts from identified flood hazards. The proposal to redesignate the property from "Parks, Open Space and Outdoor Recreation" and "Residential Multi-Family" to Single-Family Residential and Multi-Family Residential will not affect the application of the overlay zone.

#### *4.1.4 Subdivision Regulations*

*Subdivision regulations govern how land will be subdivided into lots. These regulations set construction and location standards for the infrastructure. A variety of measures can be used to mitigate hazards on subdivided areas.*

The City adopted floodplain development provisions to be implemented at the time of development (SRC 140). These restrictions set additional construction and location standards for improvements beyond those standards found in the underlying residential zoning districts. Beyond the restrictions in SRC 140, applicant will be developing the property under the zero net rise condition of approval which requires the applicant to provide compensatory flood storage for any fill placed within the floodplain. The City finds it will be feasible for Applicant to develop in such a way that will mitigate hazards on subdivided areas, and improve the management of storm and flood waters in the area. According to testimony, applicant anticipates that flood water displaced by future development will be moved to the property to the south, pursuant to an agreement with the City, or through onsite detention or by applicant on its property upstream.

#### *4.1.6 Open Space Preservation*

*Keeping a hazardous area free from development reduces risk. Land use and capital improvement plans identify areas to be preserved by acquisition and other means, such as purchasing easements.*

The City adopted a Comprehensive Park System Master Plan identifying the minimum amount of open space needed to serve the residents of Salem. The Plan does not identify the Site to be preserved for purposes of reducing flood hazard risks.

Nevertheless, Applicant has recognized the historical use of the Site for outdoor recreation and the past occurrences of flooding on the Site. Applicant will be required to dedicate drainage easements adjacent to Waln Creek. According to oral testimony, applicant has also applied to the USDA to place easements along Waln Creek for drainage and riparian enhancement purposes. Applicant will also improve the stream banks of Waln Creek on the property and develop pursuant to the zero net rise condition of approval. Additionally, the applicant is required to incorporate approximately 2.24 acres of open space into the master planned adult living community, in addition to the area reserved for riparian enhancements, which should help reduce risk. This open space area will help reduce potential flood hazard impacts by decreasing the amount of potential impervious surface area and protecting the waterways identified in the City's Stormwater Master Plan. It will also serve the purpose of providing natural area open space in an urban environment.

The applicant's required open space surrounding streams and riparian corridors enhances the quality of the neighborhoods, and improves existing natural and environmental assets. The property's use as a golf course did not protect or improve water quality to the streams crossing the property, as all stormwater flowed directly to the streams. As part of the development of the property, the applicant is required to dedicate drainage easements adjacent to the creek and correct the identified stormwater conveyance deficiencies. Applicant will also be required to develop under the zero net rise condition of approval, requiring any fill that displaces potential floodwater within the floodplain to be compensated for. Furthermore, Applicant has entered into an agreement with the City to fully utilize the adjacent property to the south to store and detain storm and flood water anticipated to affect the site. According to the Public Works Staff testimony, the new detention facility will be designed to meet the storm and flood water needs of the surrounding neighborhood.

#### *4.1.8 Acquisition and Relocation*

*Where a natural hazard is localized, such as with flooding, landslides, or other comparable situations, getting vulnerable development out of the way is the surest way to protect them. The major difference between acquisition and relocation is that the former involves the demolition of the improvements while both require the land remain as open space in perpetuity.*

As stated previously, the area within and immediately adjacent to Waln Creek must primarily be left undeveloped as a natural area open space through the required stream bank enhancements and drainage easements and any future development within the floodplain will be in accordance with the provisions of SRC Section 140. Moreover, the applicant must develop the site under the zero net rise condition of approval. This will help protect future development on the Site and surrounding development from potential flood hazard impacts.

*Action 10: Development Planning/Design/Permitting/Maintenance - Review the subdivision, zoning and other ordinances, and permit review procedures to determine what changes, if any, are needed to reduce or prevent losses from future natural hazards events. These changes could include provisions for:*

*Future development should be moved away from identified/mapped high hazard areas and/or transferring development rights from high hazard areas to safer areas, especially in those areas where the risk to people and property cannot be mitigated.*

*Encourage landowners in the UGB to provide set-asides for open space or less intensive public-private partnership development. This concept could include a provision that requires new buyers of property to set aside space or sell it to the City or other organization devoted to protecting land. Procedures to review subdivision and other large development proposals could ensure a review to identify hazardous areas. Such areas could be set aside, either as prime spots for acquisition, or protection via environmental or other easements. Regardless, preparation of policy for set-asides must maintain a balance of public safety and costs to acquire property subject to natural disasters.*

*Enhanced use of a watershed approach for new development that includes contributions from upstream development and impact on, for example, Mill Creek as it passes through Salem.*

The area of the Site within and immediately adjacent to Wain Creek must primarily be left undeveloped as a natural area open space through the required stream bank enhancements and drainage easements. Future development of the Site located within the 100-year floodplain will conform to the City's adopted floodplain development provisions found in SRC Chapter 140. Furthermore, the zero net rise condition will help protect future and surrounding development on the Site from potential flood hazard impacts. The site will use the adjacent City-owned property to the south to detain storm and flood water affecting the property. Additionally, the applicant is required to develop a buffer and mulch trail around the perimeter of the subject property, approximately 2.24 acres, which will decrease the amount of potential impervious surface on the subject property.

The proposal is consistent with all applicable goals and policies of the Salem Area Comprehensive Plan (SACP).

**Criterion 6: The proposed change benefits the public:**

The proposed change is beneficial to the public because it will promote a mixed density residential development that can serve several income levels. Specifically, the proposal will be providing housing for people 55 or older, a rapidly growing demographic in this area, in a master planned adult living community. Additionally, the development will provide the opportunity to establish a commercial node which will provide services to the surrounding neighborhood. This proposal will ensure incompatible land uses are not developed on the Site, as currently permitted in the PA zoning district.

The change will also provide for upgrades to the adjacent transportation facilities to meet current standards.

In addition, the applicant will be required to make needed improvements to Wain Creek, which are identified in the Salem Stormwater master Plan, which will provide an overall benefit to the Battle Creek water basin. The applicant will be required to allay the banks

of Wain Creek and create sinuosity. The applicant is also required to dedicate drainage easements.

Through the zone change, the applicant will be required to develop pursuant to a zero net rise condition of approval, which goes beyond the restrictions of SRC 140 and ensures that the development will have no net impacts on surrounding properties due to development in the floodplain.

Applicant will also be required to provide a perimeter buffer which is open to the public. This buffer will be developed with a trail and connect, where possible, to other pedestrian trails and walks.

Based on the findings contained herein, the City finds that Applicant has satisfied all applicable Criteria of Approval for a Minor Comprehensive Plan Change.

#### **FINDINGS APPLYING TO THE LIBERTY-BOONE NEIGHBORHOOD PLAN MAP AMENDMENT**

The subject property is located within the South Gateway Neighborhood. Prior to South Gateway, the former Liberty-Boone Neighborhood contained the land on which the subject property is located. The boundaries of the former Liberty-Boone Neighborhood were modified to add land east of Commercial Street SE and to exclude land north of Kuebler Boulevard that then became part of the Faye Wright Neighborhood. The majority of the land which made up the former Liberty-Boone Neighborhood is within the South Gateway Neighborhood.

Applicant has asserted that the Liberty-Boone Neighborhood Plan does not apply to this application, but addressed the neighborhood plan in the alternative, without conceding that the plan is even still in effect.

South Gateway does not have an adopted neighborhood plan. Neither SRC Chapter 64 nor the 1983 Liberty-Boone Plan has specific criteria for amendment of the Plan map. Pursuant to SRC 64.390, neighborhood plans must conform to the Salem Area Comprehensive Plan. Neighborhood plans are adopted as part of the SACP. Because they are part of the SACP, the City finds it must apply the SACP amendment criteria when amending the plan. This is the same procedure the City uses to amend detail plans. Although the neighborhood plan is not identified as a "detail" plan, the procedure for amending a detail plan is the same as amending the Comprehensive Plan. The City interprets its code to provide for the same procedures in amending a neighborhood plan as are used to amend the Comprehensive Plan and any detail plan. The City has used this procedure to amend a neighborhood plan concurrently with a comprehensive plan and zone change, the procedure used in this application, at least 11 times since 1998 (CPC/NPC/ZC #98-6, 98-9, 99-5, 99-6, 00-5, 03-1, 04-9, 05-2, 05-3, 06-12, and 08-14; copies of which may be viewed at the Salem Planning Department).

Elements and associated findings related to the Liberty-Boone Neighborhood Plan are listed below. Not all goals and policies contained in the Neighborhood Plan impose criteria, and instead contain aspirational goals. Likewise, certain criteria imposed by the Liberty-Boone Neighborhood Plan must be deferred until specific development plans are submitted during subsequent land use processes. The 1985 and 1986 amendments to

the Liberty-Boone Plan relate only to Industrial Commercial designations. As such, those amendments will not be addressed.

## **INTRODUCTION**

### **PURPOSE OF THE LIBERTY-BOONE NEIGHBORHOOD PLAN (Page 1)**

*The purpose of the Liberty-Boone Neighborhood Plan is to establish goals and policies which will assist both the Liberty-Boone Board and the Salem City council in directing future development in the best interest of the neighborhood and the City. (Page 1)*

### **ORGANIZATION OF THE LIBERTY-BOONE NEIGHBORHOOD PLAN (Page 2)**

*The Liberty-Boone Neighborhood Plan contains five sections in addition to the Introduction.*

#### **1. Land Use Plan Map as Adopted by the City Council**

*This Land Use Plan Map has been adopted by the City Council as the official Liberty-Boone Land Use Plan Map. This map is consistent with the Salem Area Comprehensive Plan Map and indicates the intended future development pattern for Liberty-Boone Neighborhood. This map differs slightly from the map adopted by the Neighborhood Association.*

The Liberty-Boone Land Use Plan Map designates the Site "Parks, Open Space." Applicant requests to redesignate 44.27 acres of the Site from Parks, Open Space into three different Neighborhood Land Use Plan designations. Specifically, Applicant requests to redesignate a 4.67-acre portion of the Site located directly adjacent to Commercial Street as Commercial Retail, a 10.59-acre portion of the Site located in the northern half as Multi-Family and a 26.77-acre portion of the Site located in the southern half as Single-Family. The remaining 2.24-acre portion of the Site will remain Parks, Open Space to maintain a buffer between the surrounding neighborhood and the area of the Site proposed for redesignation.

The Site has not been inventoried by the City as "Park" land in the acknowledged Parks Master Plan, nor has the Site been inventoried by the City as "Open Space" in the acknowledged Goal 5 compliance with LCDC.

Land to the north across Madras Street SE is designated "Multifamily Residential" and contains single-family dwellings and apartment complexes. Land to the north abutting the subject property, on the south side of Madras Street SE is also designated "Multifamily Residential" and contains apartments. Land west and southwest of the property is designated "Single Family Residential" and its use follows that designation. Land to the south is designated as "Parks, Open Space and Outdoor Recreation", has been purchased by the City and will retain its current designation. Land to the southeast is designated "Single Family Residential" and contains condominiums. Land on the east side of Fairway Avenue SE is designated "Multiple Family Residential" and contains the South Salem Senior Center, and a Realtor's office. "Commercial" designated land on the east side of Fairway Avenue SE lies vacant.



A portion of the subject property lies within the South Gateway Overlay zone and this portion of the property was used for commercial purposes (restaurant, pro shop). The purpose of this overlay zone is "to promote a variety of activities including multi-family residential, commercial and office uses in a manner consistent with the area's role as the southern gateway into Salem" (SRC 143E.010). Applicant's proposed multifamily and commercial designations are consistent with the purpose of the overlay zone.

**LAND USE PLAN MAP INTENT STATEMENTS (Page 4)**

*Single Family: The intent is to provide for the single family residential character of the neighborhood while striving for innovative housing and site design. (Page 4)*

The surrounding neighborhood is comprised of residential development at a mixture of densities and housing types. Applicant's proposal will provide for an extension of the existing residential neighborhood pattern with both single and multi-family residential development. The master plan will include innovative housing and site design, subject to City development standards, in the form of mixed density housing, creation of an open space buffer around the perimeter of the development, enhancement of a riparian corridor, and incorporation of pedestrian pathways.

The land use pattern for the area surrounding the subject property consists of residential land developed with single-family neighborhoods to the south (to the south of the newly acquired City property) and west and multifamily residential dwellings to the north and southeast of the subject property. Development standards shall be applied to any proposed development on the property, further ensuring that residential character is protected, and site and housing design is considered. Hence, conversion of the Site to a residential use is in keeping with the explicit intent of the neighborhood Single Family plan designation. The City finds the proposal achieves this intent.

*Multifamily: The intent is to provide for the development of multifamily housing units in concentrated locations on arterials or collectors, primarily in the vicinity of major intersections. (Page 4)*

Applicant's proposal conforms to the intent of the Multifamily neighborhood plan designation. The proposed Multifamily portion of the adult living community will maintain pedestrian, bicycle and vehicular access to two main streets; Madras Street SE and Commercial Street SE, the latter of which is designated a Major Arterial in the Salem TSP. This major arterial is currently improved to full urban standards with sidewalks and bike lanes and a signaled intersection with Madras Street. The multifamily portion will also be located adjacent to the proposed commercial development. These existing street improvements provide safe and efficient access from the Site to employment centers, shopping areas and parks in the area. Additionally, transit service is provided at the corner of Commercial Street and Wiltsey Road SE via Route 1, South Commercial.

*Commercial Retail: The intent is to provide for a variety of retail and office uses at sites adjoining major streets and transit service that reduce the need for vehicular traffic in the neighborhood.*

The subject property once included commercial uses within its eastern portion (restaurant and pro shop). With the closing of the golf course, the buildings that contained the commercial uses were demolished. The closest commercial-designated and commercial-zoned land to the east, on the east side of Commercial Street SE, is a vacant lot and the Courthouse Athletic Club. The primary street system that serves this area is also part of the land use pattern. This includes Madras Street SE, a local street, and Commercial Street SE, a major arterial, over which in this area the South Gateway Overlay Zone was placed. As the commercial land is located adjacent to Commercial Street, customer traffic will not filter through the residential neighborhoods. The perimeter buffer and trail which are required will run adjacent to the commercial land, encouraging pedestrian traffic from the surrounding neighborhoods.

*Park and Open Space: The intent is to provide park and open space sites easily accessible to neighborhood residents by walking or bicycling. (Page 4)*

The City's adopted Comprehensive Park System Master Plan identifies a need for a neighborhood park facility in the vicinity of the subject property, but not in the service area of the subject property. The City may acquire and develop a park in the vicinity utilizing various techniques like fee acquisition, pedestrian access easements, planned unit developments and the urban growth management program. Applicant is required to retain approximately 2.24 acres of natural area open space, in addition to the area reserved for stream bank enhancements and drainage easements that could provide recreational opportunities in the form of a linear trail system and other pedestrian amenities. This open space area will be accessible by foot or bicycle for future residents of the adult living community, as well as existing neighboring properties. Applicant will be required to construct a trail within the perimeter buffer, which may be linked with pedestrian amenities that could be developed as a part of the City-owned property to the south. Amending the Liberty-Boone Plan Map to replace the "Parks, Open Space" designation with "Single Family," "Multifamily" and "Commercial Retail" will fulfill the above-stated intent statements by providing a variety of housing types and walking/bicycling trails that will be open to the neighborhood residents. The proposal achieves the intent listed above.

#### **GOALS & POLICIES**

##### **LAND USE (Page 5):**

##### **GOALS:**

1. *The goal is to provide for the future development of the Liberty-Boone Neighborhood through a compatible balance of residential, commercial, industrial, and open space uses. (Page 5)*

The proposal will meet the goal by providing a balance of residential, commercial and open space facilities within the development area. More specifically, Applicant intends to develop both single and multifamily residential development which can accommodate a progression of housing types. The residential designations are in character with the surrounding residential neighborhood and will provide an opportunity, if developed with adult care, for elderly residents in Salem to live in a community where they can "age-in-place" rather than being required to move to accommodate their changing needs. The proposed commercial designation can provide the opportunity to develop a small-scale

neighborhood commercial node adjacent to Commercial Street to provide complementary services to the future development and surrounding residential neighborhoods. Lastly, the site will incorporate upwards of 2.24 acres of open space, in addition to the area reserved for stream bank enhancements and drainage easements. The 2.24 acre perimeter buffer shall be developed with a trail.

The proposed Neighborhood Plan Map amendment will promote a mixed-density residential development that can serve several income levels, provide opportunities for neighborhood scale commercial opportunities, and retain open space that will now be open to the public. This is consistent with the above stated goal.

2. *The goal is to maintain the residential areas of the neighborhood as safe, pleasant, and enjoyable places to live, with minimal encroachment of incompatible land uses. (Page 5)*

The golf course is no longer in operation. The majority of other permitted uses under the current zoning are not compatible with the surrounding residential uses. For example, four out of six of the viable, alternative uses for the Site are amusement parks, commercial sports arenas, amusement and recreation services and ball parks. The commercial nature of these uses, in terms of noise, development patterns and traffic generation, may make them incompatible with the surrounding residential neighborhood. As such, it is necessary to apply a more appropriate plan designation resulting in development of compatible uses. Applicant proposes to redesignate the Site to allow for a master planned adult living community that is compatible with the surrounding residential neighborhood and incorporates designed and natural open space areas as contemplated in the Liberty-Boone Neighborhood Plan.

Properties to the north and east are generally developed with multi-family dwellings and condominiums. The property directly to the south has been sold to the City for use as a stormwater detention facility and flood control basin for the surrounding area and potentially the Southeast Salem region. Further south and west, beyond the City owned property, the development primarily consists of condominiums and single family dwellings. Residential development consistent with the residential designations are compatible with the surrounding uses. The proposed master planned adult living community includes a progression of housing types from detached single-family dwellings to an assisted care facility. This type of development is in character with the surrounding residential neighborhood.

Additionally, the proposed commercial designation provides the opportunity to develop a small-scale neighborhood commercial node to provide complementary services to the adult living community and surrounding residential neighborhoods. Commercial retail type uses along Commercial Street SE is a logical development for the area as Commercial Street SE is characterized by retail uses to the north and south of the subject property. Goods and services in close proximity to residential areas further the goal listed above.

Finally, applicant is required to enhance the stream banks and dedicate drainage easements. Further, applicant is required to provide a perimeter buffer which shall be maintained as open space and developed with a trail. These amenities will contribute towards the neighborhood being a pleasant and enjoyable place to live.

**OVERALL POLICIES (Page 5):**

2. *Residential Density – Housing design and construction in the development of high density residential areas should blend with existing single family development, and maximize privacy and useable open space while accommodating a higher density. (Page 5)*

An open space buffer between the current and proposed development is required as a condition of approval, and will maximize privacy and useable open space. Any residential development must conform to applicable development standards. Development standards and the mixture of allowable housing options on the property will accommodate a higher density. Housing design for the single family housing and condominium buildings in the master planned adult living community will blend with the existing single family development. The retirement community development will conform to all applicable design standards to ensure compatibility with surrounding residential development.

**SINGLE FAMILY POLICIES (Page 5):**

5. *The average density of new development for the neighborhood shall be contingent upon the densities specified in the adopted Salem Area Comprehensive Plan. (Page 5)*

The density provisions of the enacting zones for SACP designations “Residential Multi-Family” and “Residential Single-Family” were adopted to achieve an overall density in the City of 6.5 dwelling units per acre. Salem Area Comprehensive Plan Part IV.B., General Development, Policy 7 states an average residential goal of 6.5 units per gross acre. The City finds that this is a policy and not a codified density requirement in the Salem Revised Code. As set forth above in the findings related to Goal 10, single family development in Salem has averaged 4.1 dwelling units per acre. The allowable density for the RM1 zones is between 8 and 14 units per acre. Development onsite can conform to these density provisions, thereby complying with General Development Policy 7 of the Salem Area Comprehensive Plan and the above referenced Neighborhood Plan Policy.

6. *Flexibility in residential site design shall be encouraged to enhance the aesthetic quality of the neighborhood while preserving the privacy of existing residents and adjoining property owners. (Page 5)*

The proposed master planned adult living community will enhance the aesthetic quality of the surrounding neighborhood by providing a logical extension of the existing residential development pattern while recognizing the physical characteristics of the Site. More specifically, aesthetic quality and privacy will be preserved by maintenance of an open space buffer around the perimeter of the property, enhancement of natural areas, integration of coordinated development patterns with interconnected open space, landscape areas and walking trails, access to the adjacent open space to the south, and the installation of entry monuments, park-like amenities and community facilities. The applicant will be required to enhance Waln Creek, and integrate the open space buffer with existing facilities. The SRC provides for planned unit developments to plan for the site as a whole, thereby increasing flexibility and contributing towards more aesthetically pleasing developments. All of these improvements will ensure conformance with the above referenced Neighborhood Plan Policy.

**MULTIFAMILY POLICIES (Page 6)**

- 10. *Multifamily units should be located in concentrated locations on arterials or collectors and within one-fourth mile of an existing transit bus route. Preferred locations shall be in the vicinity of major intersections. (Page 6)*

The proposed Multifamily portion of the adult living community will maintain pedestrian, bicycle and vehicular access to two main streets; Madras Street SE and Commercial Street SE, the latter of which is designated a Major Arterial in the Salem TSP. This major arterial is currently improved to full urban standards with sidewalks and bike lanes and a signaled intersection with Madras Street. These existing street improvements provide safe and efficient access from the Site to employment centers, shopping areas and parks in the area. Additionally, transit service is provided about 1000 feet away from the site, at the corner of Commercial Street and Wiltsey Road SE via Route 1, *South Commercial*.

- 12. *The principal access points to multifamily development should be limited to arterial and collector streets or within 250 feet of a major street. (Page 6)*

The proposed Multi-Family Residential portion of the property will have access to Commercial Street SE, a Major Arterial, and Madras Street SE, a local street. Commercial Street SE is currently improved to full urban standards with sidewalks and bike lanes and a signaled intersection with Madras Street. The City finds the proposal is consistent with the policy stated above.

**COMMERCIAL RETAIL POLICIES (Page 6):**

- 15. *Convenience commercial shall be limited to food-oriented stores and personal services. (Page 6)*

Applicant proposes to develop a small-scale neighborhood commercial node adjacent to Commercial Street to provide complementary services to the adult living community and surrounding residential neighborhoods. Permitted uses in the CR (Commercial Retail) portion of the property will be limited as seen in the below table.

| <b>Retail Commercial</b>   |
|--|
| 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)                                   |

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|--|
| Telegraph and other communication (SIC 482)  |
| Radio and television broadcasting (SIC 483)  |
| <b>Retail Trade</b>  |
| 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 |
| <b>Finance, Insurance, and Real Estate</b>   |
| 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)   |
| <b>Services</b>  |

|   |
|---|
| 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          |
| Dance halls, studios, and schools (SIC 791)   |
| 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                                       |
| Museums, art galleries, botanical and zoological gardens (SIC 84)   |
| Membership organizations (SIC 86)   |
| Engineering, Accounting, Research, Management, and Related Services (SIC 87)  |
| Services, not elsewhere classified (SIC 899)  |
| <b>Public Administration</b>  |
| 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   |
| <b>Other Uses</b>   |
| 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                        |
| <b>Special Uses</b>   |
| 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  |
| <b>Administrative Conditional Uses</b>  |
| Freestanding support structures between 36 and 70 feet in height and equipment enclosures   |
| <b>Conditional Uses</b>   |
| Crude petroleum and natural gas extraction (SIC 131)  |
| <b>Manufacturing</b>  |
| Jewelry, silverware, and plated ware (SIC 391)  |
| Costume jewelry, costume novelties, buttons, and miscellaneous notions, except precious metals (SIC 396)  |
| Signs and advertising specialties (SIC 3993)  |
| <b>Transportation, communications, electric, gas, and sanitary services</b>   |
| Local and suburban passenger transportation (SIC 411))  |
| Intercity and rural highway passenger transportation within 2,000 feet from the center point of an I-5 interchange and having direct access to a major arterial (SIC 413) |



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| Communication services, not elsewhere classified (SC 489)  |
| Electric services (SIC 491)  |
| Gas production and distribution (SIC 492)  |
| Water supply (SIC 494)   |
| Free standing support structures greater than 70 feet in height and equipment enclosures   |
| <b>Retail</b>  |
| Automotive dealers (SIC 55) BUT EXCLUDING gasoline service stations (SIC 554), and auto and home supply stores as permitted under SRC 152.020(e)(14) |
| Nonstore retailers (SIC 596)   |
| <b>Services</b>  |
| Camps and recreational vehicle parks (SIC 703)   |
| Carpet and upholstery cleaning (SIC 7217)  |
| Automotive rental and leasing, without drivers (SIC 751)   |
| Automotive repair shops (SIC 753)  |
| Electrical repair shops (SIC 762)  |
| Reupholstery and furniture repair (SIC 764)  |
| Motorcycle repair service  |
| Professional sports club and promoters (SIC 7941)  |
| Homeless shelters and room and board facilities serving 6 to 75 persons  |
| Unlimited number of dwelling units and guest rooms in apartment houses, court apartments, lodging houses, condominiums, and residential hotels.      |
| <b>Other uses</b>  |
| Utilities – secondary truck parking and material storage yard  |
| Recycling depots   |
| Solid waste transfer stations  |
| Off-site response actions in accordance with applicable law to discharges of oil and releases of hazardous substances, pollutants, and contaminants. |

The list of permitted uses in the Commercial portion of the property will be limited as conditioned for the proposed zone change.

16. *The design of convenience commercial facilities shall be oriented towards pedestrian traffic, so as to minimize the disruption caused by autos, noise, lighting, signing, and should include maintained building exteriors and landscaping which blends with the character of surrounding uses. (Page 6)*

The City has adopted buffering, parking, and other site development standards, including the interim Transportation Planning Rule analysis, to ensure commercial development provides adequate pedestrian connectivity, landscaping and safe vehicular circulation. Applicant's required public access buffer and pedestrian trail abuts the commercial retail portion of the property. Any future development of the commercial portion of the Site will be reviewed for compliance with these siting and development standards.

17. *Commercial retail facilities shall be limited to collector and arterial streets. (Page 6)*

The 4.67 acres of the Site proposed for commercial retail facilities will be located along Commercial Street, which is designated a Major Arterial in the City's Transportation System Plan.

**PARKS POLICIES (Page 7):**

30. *The advance acquisition and development of neighborhood parks shall be encouraged so that prime sites are assured to provide a more livable environment and varied recreational opportunities for children as well as adults. (Page 7)*

The City's *Comprehensive Parks System Master Plan* was adopted in 1999. The *Master Plan* identifies the minimum amount of open space needed to serve the City's residents. The City's adopted *Comprehensive Parks System Master Plan* identifies a recreational need for a neighborhood park in the vicinity of the subject property, however not within the service area of the subject property. In 2000, the City purchased property for park land on Wiltsey Road to mitigate this deficit. Additional park land is required to complete park service in the area to the south border of the Urban Growth Boundary. Urban Growth Area Development Permit No. 06-18 indicates a need for 5.3 acres south of Rees Park. The subject property is within the one-half mile service area of Rees Park, which contains 1.14 acres of developed park land; and Wiltsey Road park property, which contains 3.07 acres of undeveloped park land.

As stated previously, the City's adopted *Comprehensive Parks System Master Plan* identifies a need for a neighborhood park facility in the vicinity of the subject property, however not within the service area of the subject property. The City may acquire and develop a park in the vicinity utilizing various techniques like fee acquisition, pedestrian access easements, planned unit developments and the urban growth management program. At a minimum, Applicant is required to retain approximately 2.24 acres of natural area open space, in addition to the area reserved for stream bank enhancements and drainage easements that could provide recreational opportunities. This open space area will be a 30 foot wide buffer around the perimeter of the residential development.

31. *The acquisition and development of parks shall be encouraged in established areas of the neighborhood. (Page 7)*

The City's *Comprehensive Parks System Master Plan* was adopted in 1999. The *Master Plan* identifies the minimum amount of open space needed to serve the City's residents. The City's adopted *Comprehensive Parks System Master Plan* identifies a recreational need for a neighborhood park in the vicinity of the subject property, however not within

the service area of the subject property. In 2000, the City purchased property for park land on Wiltsey Road to mitigate this deficit. Additional park land is required to complete park service in the area to the south border of the Urban Growth Boundary. Urban Growth Area Development Permit No. 06-18 indicates a need for 5.3 acres south of Rees Park. The subject property is within the one-half mile service area of Rees Park, which contains 1.14 acres of developed park land; and Wiltsey Road park property, which contains 3.07 acres of undeveloped park land.

In accordance with the Master Plan, priority will be given to acquiring and developing a neighborhood park to generally serve the South Salem area. According the golf course study commissioned by the City Council, included in the record, acquiring or maintaining the Site as a public golf course is not warranted.

**TRAFFIC CIRCULATION POLICIES (Page 8):**

37. *Through traffic shall be discouraged within the Liberty-Boone Neighborhood residential areas through the careful location and design of streets. (Page 8)*

The site currently has access to two streets, Commercial Street SE and Madras Street SE. The applicant is proposing three access points for the development, with one to Commercial Street SE and two to Madras Street SE. The site street layout and access points will be reviewed by the Public Works Department at the time of development. They shall be designed, consistent with Salem's Transportation Systems Plan, so as to minimize through traffic in the adjacent residential areas. As part of this approval, future street connections and access have been made conditions during development. As conditioned, future development shall be consistent with this policy.

**PARKS**

**GOALS (Page 9):**

45. *The goal is to provide new conveniently located park and recreation facilities within the neighborhood and to promote the effective use of landscape arrangements and open spaces. (Page 9)*

The City's adopted Comprehensive Parks System Master Plan identifies a need for a neighborhood park facility in the vicinity of the Site. The City may acquire and develop a park in the vicinity utilizing various techniques like fee acquisition, pedestrian access easements, planned unit developments and the urban growth management program. Priority will be given to acquiring and developing a neighborhood park to generally serve the South Salem area. According the golf course study commission by City Council, included in the record, acquiring or maintaining the Site in its current designation as an outdoor recreation use is not warranted at this time. The City recently acquired the 38 acres to the south of the subject property for storm water control and flood management purposes.

The Applicant is required to retain approximately 2.24 acres of natural area open space, in addition to the area reserved for stream bank enhancements and drainage easements. The perimeter buffer will be developed with a trail, which will be connected to other pedestrian trails and walks, and could be connected to any pedestrian amenities which may be developed on the City-owned property to the south. Additionally,

professionally maintained landscape areas will be incorporated into the master plan design and will connect to the natural area open space areas.

47. *The goal is to encourage the retention of open space, where feasible, so as to provide relief from the visual, noise and air-pollution caused by urbanization. (Page 9)*

Applicant is required to retain approximately 2.24 acres of the Site as a natural area open space, in addition to the area reserved for stream bank enhancements and drainage easements, to provide a buffer between existing residential development and the proposed residential development. The applicant will retain approximately 2.24 acres of natural area open space, in addition to the area reserved for stream bank enhancements and drainage easements. This open space area will be a 30 foot wide buffer around the perimeter of the adult living community, which will include trails or paths and be open to the public. Additionally, the unique natural resources located on the Site will be inventoried and protected in accordance with the City's provisions for riparian protection and flood hazard mitigation. The City's recent purchase of the 38 acres to the south of the subject property was a large open space acquisition which provides a benefit to the surrounding neighborhood, as well as future residents of the subject property. These proposed open spaces will effectively provide relief from the adverse impacts of urbanization.

**PARK AND RECREATION FACILITIES POLICIES (Page 9):**

49. *The neighborhood shall be assured input in the development of the community, neighborhood, and mini parks. (Page 9)*

As stated previously, the City adopted a Comprehensive Parks System Master Plan in 1999, which inventoried recreation needs and opportunities in the City of Salem. The public outreach portion for this Plan is specifically outlined in the section entitled Master Plan Volume II-*Planning Process*, which states, "(f)or the Master Plan to respond to community needs, it is essential to involve Salem residents. To best evaluate diverse community park and recreation needs, public input from Salem's park users and citizens was gathered in two primary ways: (1) public attitude research and (2) interactive public forums. Different approaches were employed to ensure an accurate picture of public attitudes about the city's park system from users, stakeholders, such as organized sports activity groups, and citizens who may not use park facilities very often. In addition, a Policy Advisory Committee (PAC) was appointed by the City Council to develop the overall direction of the Master Plan." This planning process assured neighborhood input into the development of community, neighborhood, and mini parks in South Salem.

**OPEN SPACE POLICIES (Page 9 – 10):**

51. *Dedicated public open space shall be encouraged within all new residential developments of over five acres and provisions made for its maintenance. Maintenance should come through a combination of City funds and neighborhood labor. (Page 9)*

Applicant is already required to incorporate approximately 2.24 acres of open space into the future residential development, in addition to the area reserved for stream bank

enhancements and drainage easements. This open space area is intended to provide a buffer between existing uses and the proposed development. This open space area will be a 30 foot wide buffer around the perimeter of the adult living community, which will include trails or paths and be open to the public. Additional area will also be set aside to protect the waterways and riparian areas identified in the City's Stormwater Master Plan. Additional dedications may be required at the time development is proposed.

52. *The preservation of the area around Battle Creek shall be encouraged until clearly needed for development. With development, Battle Creek shall be preserved as a natural drainage way. (Page 9)*

Oregon Statewide Planning Goal 10 requires the City to allocate adequate amounts and types of land to accommodate the needed housing units for all incomes. Specifically, the amount and types of needed land are adequate if the amount of available buildable lands within the UGB is greater or equal to the Projected Land Consumption. As stated previously in the findings related to Goal 10, Salem UGB residents will likely consume more than the residential land supply available and the City will actually face a deficit of buildable residential land by 2027. Therefore, the proposal to redesignate 37.36 acres of land to Residential will help ensure the City remains compliant with Goal 10. Additionally, the State's Office of Economic Analysis "Forecast of Oregon's Populations by Age and Sex" (herein "OEA") and census data reports that 21.0 percent of the current residents in Marion and Polk County are age 55-or-older. However, OEA states that the 55-and-over demographic will increase to 25.8 percent of the residents by 2020. Thus, the overall need for more residential lands is amplified by the increase in the 55-or-older demographic, and therefore the need for the proposed development is substantial.

No part of Battle Creek is on the Subject Property. The City recently acquired the adjacent parcel to the south with the intent that it remains open space and be developed in such a way as to maximize the stormwater detention and flood prevention potential of the land. With development, the stream flow of Waln Creek would be managed and protected for flood control, riparian enhancement and stormwater management. Applicant intends to restore riparian areas and is required to dedicate drainage easements and to allay the banks of Waln Creek and provide sinuosity which will help enhance the scenic and functional quality of Waln Creek. Therefore, residential development is needed and Battle Creek will be preserved as a natural drainage way.

53. *The neighborhood shall be assured of input on developments proposed for land of ecological significance. (Page 10)*

A Minor Plan Change is processed as a quasi-judicial land use action. Public notice and public hearing are required to provide interested citizens an opportunity to be involved in the process. In addition to the City's required citizen involvement tasks, the Applicant and its representatives have actively engaged the surrounding property owners over the last 2 years to keep them apprised of the latest developments concerning the property. A detailed explanation of Applicant's efforts has been provided above. Input from various parties during the process contributed toward the implementation of certain conditions of approval. These outreach efforts, the local media coverage, and the City's required citizen involvement tasks ensure there is neighborhood involvement in the land use process.

**HOUSING (Page 10):**

**GOAL:**

54. *The goal is to encourage safe, decent, and sanitary housing which provides for a variety of incomes and protects and improves the neighborhood quality. (Page 10)*

Applicant intends to develop a master planned adult living community including a progression of housing types from detached single-family dwellings to a continued care retirement community, which will ensure affordability for a variety of income levels. This type of development is in character with the surrounding residential neighborhood and will provide an opportunity for elderly residents in Salem to live in a community where they can "age-in-place" rather than being required to move to accommodate their changing needs. The mixture of single and multifamily residential designations will provide flexibility and a variety of housing options on the property. Specifically, the applicant is proposing a master planned adult living community including a progression of housing types from detached single-family dwellings to a continued care retirement community. Additional residential land and a variety of housing options should ensure affordability for a variety of income levels. Housing design in the master planned community will blend with existing residential development and will meet all applicable design standards imposed by the SRC.

**POLICIES (Page 10):**

56. *Land shall be designated for multifamily units which would be suitable for all income levels. (Page 10)*

Applicant requests a neighborhood plan map amendment to Multifamily for a portion of the Site. The subject property would provide a unique opportunity in southeast Salem to develop a new mixed-density residential neighborhood accommodating households of varying types and incomes. This area will accommodate a continued care retirement community, condominium style buildings, and cottage and patio style housing specially designed for 55-or-older residents. As such, this proposal represents an efficient use of residential land, creates housing opportunities for residents of varying income levels, and assists a growing demographic.

57. *An average number of dwelling units contingent upon the densities specified in the adopted Salem Area Comprehensive Plan shall be maintained for each new single family residential development. (Page 10)*
58. *An average number of dwelling units contingent upon the densities specified in the adopted Salem Area Comprehensive Plan shall be maintained for each new multifamily complex. (Page 10)*

As stated previously, the density provisions of the enacting zones for SACP designations "Residential Multi-Family" and "Residential Single-Family" were adopted to achieve an overall density in the City of 6.5 dwelling units per acre. As set forth above in the findings related to Goal 10, single family development in Salem has averaged 4.1 dwelling units per acre. The allowable density for the RM1 zones is between 8 and 14 units per acre. Development onsite can conform to these density provisions, thereby

complying with General Development Policy 7 of the Salem Area Comprehensive Plan and the above referenced Neighborhood Plan Policy.

59. *A housing mix contingent upon the densities specified in the adopted Salem Area Comprehensive Plan shall be achieved. (Page 10)*

As the Goal 10 analysis indicates, the type and distribution of the dwelling units in the proposed residential development will help meet expected population growth within the UGB. As mentioned above, single family development in Salem has averaged 4.1 dwelling units per acre. The allowable density for the RM1 zones is between 8 and 14 units per acre. Development onsite can conform to these density provisions, thereby complying with General Development Policy 7 of the Salem Area Comprehensive Plan and the above referenced Neighborhood Plan Policy. Specifically, the proposed community will address residential needs for an increasing demographic, i.e., people who are 55 or older, at the City's projected density goals.

#### **NEIGHBORHOOD POLICIES**

##### **PUBLIC FACILITIES AND SERVICES POLICIES (Page 12)**

73. *The adoption of an administrative review process shall be supported which includes a provision for neighborhood recommendations on all proposed multifamily complexes. The review process should take into consideration the compatibility with existing uses, traffic impact, and potential school enrollment. (Page 12)*

The City has adopted design standards, buffering, parking, and other site development standards, including the interim Transportation Planning Rule analysis, to ensure multifamily development is compatible with surrounding development, provides adequate pedestrian connectivity, landscaping and safe vehicular circulation. Any future development of the Multifamily portion of the Site will be reviewed for compliance with these design, siting and development standards.

Additionally, the City has adopted design standards for all multi-family development that include additional provisions and/or restrictions for siting, buffering, landscaping, parking, access, and circulation patterns. The standards take into account existing uses, traffic patterns, and topography. Future development proposals shall be required to go through subdivision or site plan review land use procedures, where interested parties may comment and provide input.

#### **FINDINGS APPLYING TO THE APPLICABLE SALEM REVISED CODE CRITERIA FOR ZONING MAP AMENDMENT**

The following analysis addresses the re-zoning of the subject property from PA (Public Amusement) to CR (Retail Commercial), RM1 (Multiple Family Residential), and RS (Single Family Residential).

SRC Chapter 114.160 provides the criteria for approval for Zone Map amendments. In order to approve a quasi-judicial Zone Map amendment request, the administrative body shall make findings based on evidence provided by the applicant demonstrating that all the following criteria and factors are satisfied. The extent of the consideration given to

the various factors set forth below will depend on the nature and circumstances of each individual case. Unless any of the factors are deemed irrelevant, something more than an unsupported conclusion will be required, but the degree of detail in the treatment of relevant factors will depend on the degree of proposed change or deviation, and the scale and intensity of the proposed use or development. The requisite degree of consideration is directly related to the impact of the proposal – the greater the impact of a proposal in an area, the greater is the burden on the proponent.

The applicable criteria and factors are stated below in **bold** print. Following each criterion is a response and/or finding relative to the amendment requested. The applicant provided justification for all applicable criteria. The City concurs with the portions of applicant's statements that are set forth in these findings and incorporates those findings as its own.

**Criterion (a): The applicant for any quasi-judicial land use action under this zoning code, other than classification of zoning for newly annexed areas that most closely corresponds to the county zoning, shall have the burden of proving justification for the proposal. The greater the impact of the proposal in an area, the greater is the burden on the proponent.**

Salem Revised Code (SRC) 113.100(a) describes the intent and purpose of zone changes. The zone change review process is established as a means of reviewing proposals and determining when they are appropriate.

The proposal provides an opportunity to expand and diversify the range of residential development in the neighborhood. The proposed zone change to CR, RS, and RM1 is compatible with the commercial uses to the northwest along Commercial Street SE, and the residential uses to the north, south, southeast and west.

**Criterion (b): The proposal must be supported by proof that it conforms to all applicable criteria imposed in this zoning code; that it conforms to all standards imposed by applicable goals and policies of the comprehensive plan in light of its intent statements, including adopted neighborhood plans; and that it conforms with all applicable land use standards imposed by state law or administrative regulation. The burden rests ultimately on the proponent to bring forward testimony or other evidence sufficient to prove compliance with these standards. At a minimum, the proponent's case should identify and evaluate the proposal in the context of all applicable standards.**

As shown above in the response to Comprehensive Plan Change Criterion 5, the proposed amendment to the Plan map from "Parks, Open Space and Outdoor Recreation" to "Commercial", "Single Family Residential" and "Multifamily Residential" and zone change from PA to CR, RS, and RM1 is consistent with the Goals and Policies of the Salem Area Comprehensive Plan and all applicable land use standards imposed by state law, including the Statewide Planning Goals.

The Applicant has satisfactorily addressed the applicable portions of the Liberty-Boone Neighborhood Plan.

Future proposed residential development will be reviewed for conformance with the standards of the SRC, when a development permit is sought.



The applicant provided a Transportation Planning Rule Analysis that the City Traffic Engineer has reviewed and concurred with. DLCD has also concurred as long as the proposed zoning limits uses to the ones listed in the applicants Analysis. DLCD requested that the City adopt zoning restrictions limiting allowed uses in the rezoned area to generating no more than 3,669 ADT. DLCD also requests that the City adopt a trip cap as a part of the approval so that a change or modification of the trip cap would require another zone change, including the necessary steps to address the TPR.

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 (OAR 660-12-0000 et seq.; PWDS Bulletin No.19). The City Traffic Engineer shall review and approve the TIA for each Phase prior to development for conformance with City Standards. Construction plans for the development will not be reviewed without an approved TIA.

A traffic analysis is required to evaluate adequate connectivity to provide for a safe, orderly, and efficient circulation of traffic into, through, and out of the development, to the satisfaction of the Public Works Director. The applicant shall provide a public street connection to Commercial Street SE in an alignment with the Courthouse Athletic Club driveway across the street. No direct driveway access shall be allowed to Commercial Street SE.

The subject property does not have adequate availability to the existing public street infrastructure. The Salem TSP, Local Street Connectivity Element Goal, is to provide an interconnected local street system that allows for dispersal of traffic and encourages a mix of travel modes. One of the objectives is to encourage local street circulation patterns that provide access to property and connections to collector and arterial streets, and neighborhood activity center and emergency access. A well-connected street network provides for safe, direct, and convenient access by automobile, bicycle, and pedestrian. Therefore, the applicant shall provide for local street connections in locations approved by the Public Works Director.

The subject property contains a portion of Waln Creek. This creek is within the Battle Creek Drainage Basin as identified in the *Stormwater Master Plan*. Waln Creek is designated on the Federal Emergency Management Agency's (FEMA) floodplain maps as a regulated waterway. There are public storm drain facilities within Commercial Street SE and Madras Street SE.

The applicant shall be required to 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.

The *Stormwater Master Plan* identifies conveyance and enhancement deficiencies in the vicinity. The applicant shall be required to construct the following Stormwater master plan improvements as defined in the Battle Creek Basin Project list:

Waln Creek - BCB11 is referring to improvements from Madras Street SE to Battle Creek. **Recommended Improvements** - Replace two small culverts; provide channelization and bioengineering along Waln Creek.

Waln Creek is classified a Type "D" waterway as defined in the Public Works Design Standards. The Type "D" waterway's conveyance systems shall be designed to accommodate fish passage to the greatest extent practicable as determined by the Director; open channels shall be used exclusively except where culverts, bridges, or other closed systems are approved by the Director.

The design flows for a Type "C" waterway require this creek to carry a 100-year storm event, whereas a Type "D" requires a carrying capacity of a 25-year storm event. Open channels shall be used exclusively with limited creek crossings. Exceptions may be approved by the Director of Public Works (PWDS-Storm V). All federal, state, and local permits shall be required prior to any waterway improvements and proposed points of discharge.

The application meets criterion (b) for a zone change from PA to CR, RS and RM1 and all applicable land use standards imposed by state law or administrative regulation for the same reasons as detailed within the findings addressing Criterion 3 of the proposed SACP Map amendment (SRC Section 64.090(b)(3)), and upon meeting 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 3,669 ADT.

- (4) Future uses of the CR (Commercial Retail) portion of the subject property shall be limited to those uses explicitly listed in the following table, developed in accordance with applicable zoning district provisions:

| <b>Retail Commercial</b>   |
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| <del>Agriculture and forestry</del>  |
| Veterinary services for animal specialties (SIC 0742)  |
| <del>Construction</del>  |
| Offices for any use listed in SIC Division C – Construction  |
| <del>Printing and Publishing</del>   |
| Commercial Printing (SIC 275)  |
| <del>Transportation, communications, electric, gas, and sanitary services</del>  |
| 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)  |
| <del>Retail Trade</del>  |
| 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)   |

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| 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 |
| <b>Finance, Insurance, and Real Estate</b>   |
| 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)   |
| <b>Services</b>  |
| 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   |
| Dance halls, studios, and schools (SIC 791)  |
| Health services (SIC 80) but excluding hospitals (SIC 806)   |
| Legal services (SIC 81)  |

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| Educational services (SIC 82)  |
| Social Services (SIC 83), except homeless shelters serving more than five persons  |
| Museums, art galleries, botanical and zoological gardens (SIC 84)  |
| Membership organizations (SIC 86)  |
| Engineering, Accounting, Research, Management, and Related Services (SIC 87)   |
| Services, not elsewhere classified (SIC 899)   |
| <b>Public Administration</b>   |
| 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  |
| <b>Other Uses</b>  |
| 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 |
| <b>Special Uses</b>  |
| 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   |

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| <b>Administrative Conditional Uses</b>  |
| Freestanding support structures between 36 and 70 feet in height and equipment enclosures   |
| <b>Conditional Uses</b>   |
| Crude petroleum and natural gas extraction (SIC 131)  |
| <b>Manufacturing</b>  |
| Jewelry, silverware, and plated ware (SIC 391)  |
| Costume jewelry, costume novelties, buttons, and miscellaneous notions, except precious metals (SIC 396)  |
| Signs and advertising specialties (SIC 3993)  |
| <b>Transportation, communications, electric, gas, and sanitary services</b>   |
| Local and suburban passenger transportation (SIC 411))  |
| Intercity and rural highway passenger transportation within 2,000 feet from the center point of an I-5 interchange and having direct access to a major arterial (SIC 413) |
| Communication services, not elsewhere classified (SC 489)   |
| Electric services (SIC 491)   |
| Gas production and distribution (SIC 492)   |
| Water supply (SIC 494)  |
| Free standing support structures greater than 70 feet in height and equipment enclosures  |
| <b>Retail</b>   |
| Automotive dealers (SIC 55) BUT EXCLUDING gasoline service stations (SIC 554), and auto and home supply stores as permitted under SRC 152.020(e)(14)                      |
| Nonstore retailers (SIC 596)  |
| <b>Services</b>   |
| Camps and recreational vehicle parks (SIC 703)  |
| Carpet and upholstery cleaning (SIC 7217)   |
| Automotive rental and leasing, without drivers (SIC 751)  |
| Automotive repair shops (SIC 753)   |
| Electrical repair shops (SIC 762)   |
| Reupholstery and furniture repair (SIC 764)   |
| Motorcycle repair service   |
| Professional sports club and promoters (SIC 7941)   |
| Homeless shelters and room and board facilities serving 6 to 75 persons   |
| Unlimited number of dwelling units and guest  |

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| rooms in apartment houses, court apartments, lodging houses, condominiums, and residential hotels.   |
| <del>Other uses:</del>   |
| Utilities – secondary truck parking and material storage yard  |
| Recycling depots   |
| Solid waste transfer stations  |
| Off-site response actions in accordance with applicable law to discharges of oil and releases of hazardous substances, pollutants, and contaminants. |

- (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.
- (12) Any development of the subject property will be subject to a "zero net rise" restriction which will require compensatory flood storage to be provided for any fill placed below the 100-year flood elevation.
- (13) Prior to development, complete a Letter of Map Revision (LOMR) study and provide the findings to the city for review.

(14) Wain Creek shall be improved by allaying the banks and creating sinuosity.

(15) All parking areas shall be constructed out of pervious material.

As stated in the Comprehensive Plan, changes to the land use pattern are expected to occur as conditions change and as demand for various land uses change. The City finds that applicant has identified and evaluated the proposal in the context of applicable standards herein. This proposal is consistent with the factors for zone changes as described in SRC 113.100(a) and therefore satisfies Criterion (a) and (b) for a zone change from PA to CR, RS, and RM1.

**Criterion (c): In addition to the proof under (a) or (b), the following factors should be evaluated by the proponent of a zone change and shall, where relevant, be addressed by the administrative body in its final decision:**

**Factor 1: The existence of a mistake in the compilation of any map, or in the application of a particular land use designation to any property in this zoning code or the comprehensive plan;**

There is a conflict between the comprehensive plan and the zoning on a small portion of the Subject Property. Tax lots 1000 and 1100 are designated "Residential Multi-Family" in the comprehensive plan, but Public Amusement in the City's zoning code. The PA zone is not intended to implement the "Residential Multi-Family" designation. Since Applicant is requesting that this particular section be redesignated Commercial and rezoned to Commercial Retail, Applicant does not allege a mistake in the compilation of any map or the application of a particular zone and staff has not found proof of a mistake that would have any material effect on this proceeding. Staff cannot find any land use action that approved this Comprehensive Plan designation for the property nor can staff find any action that conclusively proves that it is the wrong designation. If the request Comprehensive Plan, Neighborhood Plan, and Zone change are approved this discrepancy will be fixed.

The majority of the Site was originally designated Parks, Open Space and Outdoor Recreation in 1972 in recognition of the historical use of the Site as a golf course. More than 35 years have passed since then and correspondence in the record shows there is a scarcity of water resources to serve the golf course. As a direct result, the course is no longer operational and was closed following the 2007 golf season. Since the public golf course ceases to exist, the existing plan designation is no longer appropriate for two primary reasons. First and foremost, while the definition and intent statement for Parks, Open Space and Outdoor Recreation found on pages 9 and 10 of the Salem Area Comprehensive Plan recognizes the historical contribution of golf courses as an outdoor recreational opportunity, if a public golf course is no longer feasible on the Site, and the City has no plans to acquire it for a community park or special use facility, the City should consider applying a more appropriate comprehensive plan designation.

Secondly, the majority of other permitted uses in the administering zone for Parks, Open Space and Outdoor Recreation are not compatible with the surrounding residential uses. For example, four out of six of the viable, alternative uses for the Site are amusement parks, commercial sports arenas, amusement and recreation services and ball parks. The commercial nature of these uses, in terms of noise, development patterns and traffic



generation, make them incompatible with the surrounding residential neighborhood. As such, it is necessary to apply a more appropriate plan designation resulting in development of compatible uses. Applicant proposes to redesignate the Site to allow for residential uses, specifically a master planned adult living community that is compatible with the surrounding residential neighborhood and incorporates designed and natural open space areas as contemplated in the City's comprehensive plan.

**Factor 2: A change in the social, economic, or demographic patterns of the neighborhood or of the community;**

The State's Office of Economic Analysis "Forecast of Oregon's Populations by Age and Sex" and census data projects an increase in population and a disproportional increase in the 55-or-older population. The demographic shift is due in large part to the aging baby boomer generation. The housing needs of this demographic are different than those of a younger population. These include, but are not limited to, one-level housing, access to assisted care, proximity to professional and retail services, availability of transit, etc. The Site is well suited to provide these amenities due to its location on a commercial corridor, availability of multi-modal transportation options, proximity to the Senior Center and Courthouse Athletic Club and access to on-site assisted care.

The EOA, referenced above and included in the record, identifies not only population increase but demographic change as a driving force in a projected increase in the service sector. The aging population in Oregon is increasing demand for goods and services connected to the needs of an older population. The EOA states that the retirement of the "baby boomers" will generate an increased "need for health care, legal services and social services."

The use of the property will be consistent with other residential uses in the area, and should have no adverse effect on the area. The land proposed for zone change is situated directly north, south, east and west of existing residential development. The effect of the zone change on the neighborhood would be minimal. The proposed change would have no significant effect on public facilities. Public facilities are already available to the subject property. The City finds there has been a change in the patterns of this neighborhood and community.

**Factor 3: A change of conditions in the character of the neighborhood in which the use or development is proposed;**

The development pattern of the surrounding neighborhood over the last 25 years has primarily been residential with associated support services as evidenced by historic aeriels included in the record. These uses are potentially incompatible with the uses permitted in the PA zoning district including amusement parks, commercial sports arenas, amusement and recreation services and ball parks. Applicant proposes to rezone 37.36 acres of the Site to residential zoning districts in recognition of the surrounding development pattern, while retaining approximately 2.24 acres of PA zoning to create a buffer between the existing neighborhood and the proposed adult living community.

More recently, the City purchased the 38 acre property to the south of the Site. This transferred a large amount of open space into City control. This purchase was specifically to address storm and flood water management issues that have been

developing as residential uses began to develop around the Site. This acquisition by the City preserves open space in the neighborhood and promotes more effective storm water management and flood control.

**Factor 4: The effect of the proposal on the neighborhood, the physical characteristics of the subject property, and public facilities and services;**

Applicant's proposal provides certain benefits to the neighborhood. The proposed residential development will have a positive effect on the neighborhood by providing a logical extension of the existing residential development pattern. The physical characteristics of the Site and the necessary provision of public facilities and services make the site an ideal location for residential infill development. Additionally, the portion identified along Commercial Street for commercial development is in keeping with the development pattern of the area, and the intent and policy of the South Gateway Overlay Zone.

The applicant will be required to develop under a zero net rise condition of approval, ensuring that they cannot fill within the floodplain without providing compensatory flood storage. If the current zoning were retained, pursuant to SRC 140, the applicant would have the right to fill the floodplain to develop uses under the PA zone. The applicant will also be required to enhance the stream banks on the property, dedicate easements and create public access and trails through the perimeter buffer. Physical characteristics of the property include the presence of Wain Creek and associated floodplain, as previously discussed, and a wetland identified in the city's local wetland inventory (LWI). The applicant has completed a Wetland Delineation and the Department of State Lands (DSL) has indicated concurrence. The city's Tree Protection, Floodplain and Wetland Development standards will be applied at the time of development of the subject property and will ensure compliance with Goal 5 and protection of the site's natural resources. As a condition of approval the applicant must make the connection and access improvements as requested by Salem Public Works.

**Factor 5: All other factors relating to the public health, safety, and general welfare which the administrative body deems relevant.**

The proposed change will not affect the public health, safety and general welfare. The proposed zone change will be consistent with the existing land uses and transportation pattern in this area. The existing transportation system is adequate for the proposal, and includes multiple modes of transport and access. Existing public services provide for water supply, sewage disposal and storm drainage, and all needed utilities are available or can be easily extended. No factors have been identified that would be detrimental to the public health, safety or welfare. Future development of the property would be required to maintain property line setbacks and the appropriate buffer yards. The city's Tree Protection, Floodplain and Wetland Development standards will be applied at the time of development of the subject property and will ensure compliance with Goal 5 and protection of the site's natural resources.

Applicant's proposal provides certain benefits to the neighborhood. Applicant will be required to develop under a zero net rise condition of approval, ensuring that they cannot fill within the floodplain without providing compensatory flood storage. Applicant will also be required to enhance the stream banks on the property, dedicate easements and create public access and trails through the perimeter buffer.

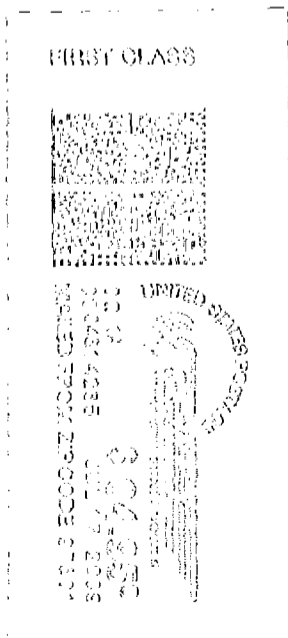
In light of the statements as set forth above, the City finds that each of the factors has been addressed. Therefore, the proposed zone change conforms to Criterion (c) as defined under SRC 114.160(c).

### **CONCLUSION**

Based on the findings contained above, the Applicant has satisfactorily addressed the applicable criteria for granting approval of an application to re-designate 44.27 acres of the subject property from "Parks, Open Space and Outdoor Recreation" and "Residential Multi-Family" into three separate plan designations; Commercial for 4.67 acres directly adjacent to Commercial Street; Residential Multi-Family for 10.59 acres located in the northern portion of the subject property; and Residential Single-Family for 26.77 acres located in the southern portion of the subject property while retaining 2.24 acres under the Parks, Open Space and Outdoor Recreation designation; and to redesignate portions of the Liberty-Boone Neighborhood Plan map from "Parks and Open Space" into three separate neighborhood plan map designations; "Commercial Retail" for a 4.67 acre portion of the subject property located directly adjacent to Commercial Street, "Multifamily" for a 10.59 acre portion of the subject property, "Single Family" for a 26.77 acre portion of the subject property, while retaining "Parks and Open Space" for a 2.24 acre portion of the subject property; and to change the zoning of the Site from Public Amusement to three separate zoning districts; "Commercial Retail" for 4.67 acres directly adjacent to Commercial Street; "Residential Multi-Family 1" for 10.59 acres located in the northern portion of the subject property; and "Residential Single-Family" for 26.77 acres located in the southern portion of the subject property, while retaining 2.24 acres under the Public Amusement zoning district.

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