



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/28/2012

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 015-12

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: Monday, January 14, 2013

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Bryan Colbourne, City of Salem
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

<input type="checkbox"/> In person	<input type="checkbox"/> Electronically	<input type="checkbox"/> Mailed
HAND DELIVERED		
DEPT OF		
DEC 24 2012		
LAND CONSERVATION AND DEVELOPMENT		
For Office Use Only		

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Salem**Local file number: **CPC-NPC-ZC12-09**Date of Adoption: **12/18/2012**Date Mailed: **12/20/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 11/13/2012☐ Comprehensive Plan Text Amendment☒ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☒ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

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

To change the Salem Area Comprehensive Plan (SACP) Map designation from Multi-Family Residential to Commercial and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial) and change the neighborhood plan map designation accordingly on property 0.43 acres in size, and located at 2710 Broadway Street NE - 97301 (Marion County Assessor's Map and Tax Lot numbers: 073W14BB / 04901).

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Multiple Family Residential**to: **Commercial**Zone Map Changed from: **RM2**to: **CR (Retail Commercial)**Location: **2710 Broadway St NE**Acres Involved: **0.43**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

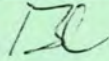
If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. 015-12 (19596) [17297]

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

Local Contact: Bryan Colbourne, Planner III



Phone: (503) 540-2363

Extension:

Address: 555 Liberty St SE, Rm 305

Fax Number: 503-588-6005

City: Salem

Zip: 97301-

E-mail Address: bcolbourne@cityofsalem.net

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

Vicinity Map 2710 Broadway Street NE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

Parks

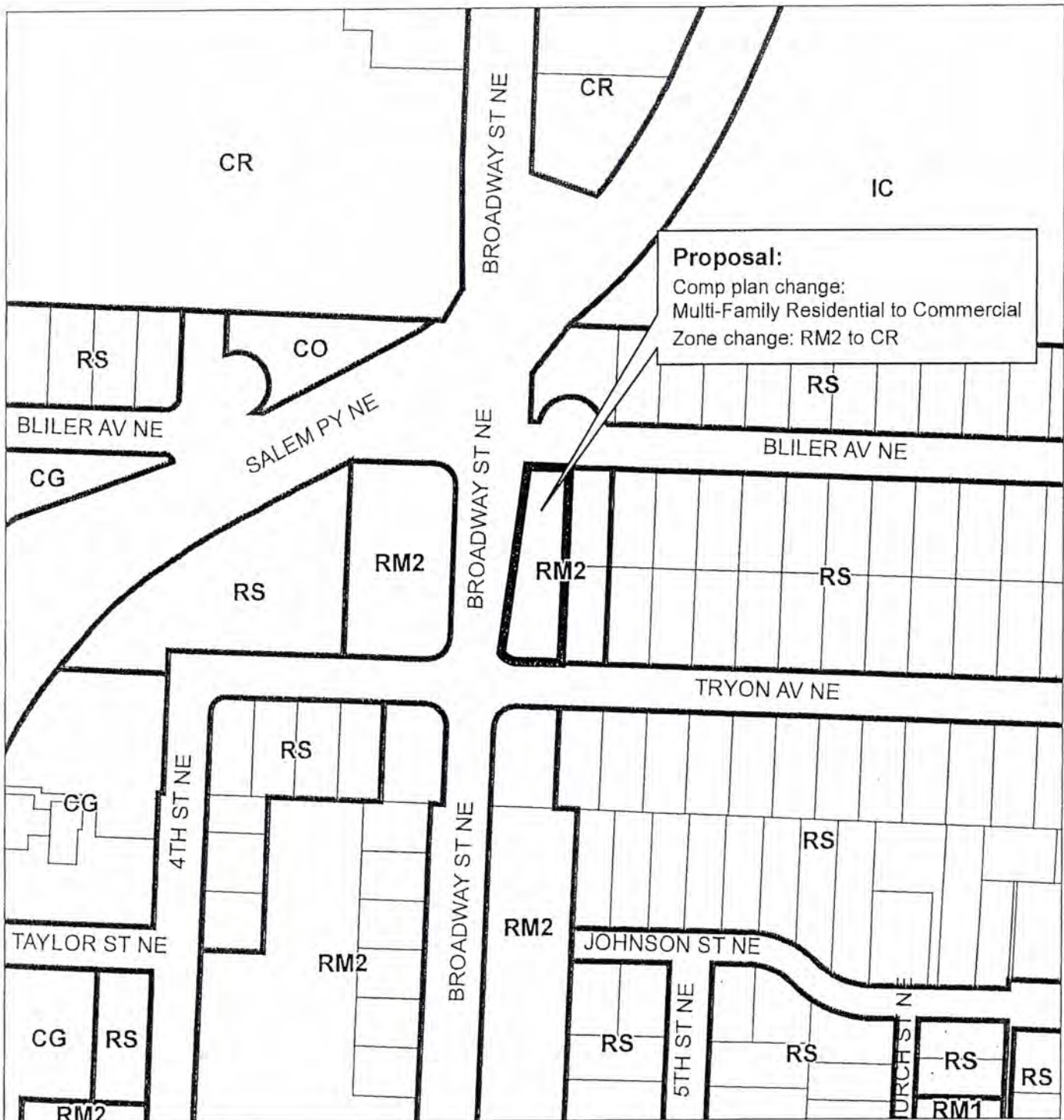
CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

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0 100 200 400 Feet

Comprehensive Plan Change/Neighborhood Plan Change/ Zone Change 12-09



Legend

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

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0 50 100 200 Feet



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

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE PLANNING COMMISSION

COMPREHENSIVE PLAN CHANGE/ NEIGHBORHOOD PLAN CHANGE / ZONE CHANGE CASE NO. CPC-NPC-ZC12-09

APPLICATION NO. : 12-116239-ZO

NOTICE OF DECISION DATE: December 19, 2012

REQUEST: To change the Salem Area Comprehensive Plan (SACP) Map designation from Multi-Family Residential to Commercial and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial) and change the neighborhood plan map designation accordingly on property 0.43 acres in size, and located at 2710 Broadway Street NE - 97301 (Marion County Assessor's Map and Tax Lot numbers: 073W14BB / 04901).

APPLICANT: ESPRESSO REPAIR & MAINTENANCE, LLC

LOCATION: 2710 BROADWAY STREET NE

CRITERIA: Salem Revised Code Chapters 64 and 113

FINDINGS: The Planning Commission adopted the Facts and Findings in the staff report dated December 18, 2012.

DECISION:

The Planning Commission **GRANTED** Comprehensive Plan Change/Neighborhood Plan Change/Zone Change Case No. CPC-NPC-ZC12-09 as follows:

- A. That the Salem Area Comprehensive Plan (SACP) map designation change request for the subject property from "Multi-Family Residential" to "Commercial" be GRANTED.
- B. That the zone change request for the subject property from RM2 (Multiple Family Residential) to CR (Retail Commercial) be GRANTED.


VOTE:

Yes 6 No 0 Absent 1 (Goss)

Jim Lewis, President, Salem Planning Commission

A copy of the decision is attached.

TO: Planning Commission

FROM: Glenn W. Gross, Urban Planning Administrator 

STAFF: Bryan Colbourne, Planner III

HEARING DATE: December 18, 2012

APPLICATION: Comprehensive Plan Change / Neighborhood Plan Change / Zone Change Case No. CPC-NPC-ZC12-09

LOCATION: 2710 Broadway Street NE

SIZE: Approximately 0.43 acres

REQUEST: To change the Salem Area Comprehensive Plan (SACP) Map designation from Multi-Family Residential to Commercial and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial) and change the neighborhood plan map designation accordingly on property 0.43 acres in size, and located at 2710 Broadway Street NE - 97301 (Marion County Assessor's Map and Tax Lot numbers: 073W14BB / 04901).

APPLICANT: Espresso Repair & Maintenance, LLC

APPLICANT'S REPRESENTATIVE: Christopher Holland

APPROVAL CRITERIA: Comprehensive Plan Map Amendment: Salem Revised Code, Chapter 64
Zone Map Amendment: Salem Revised Code, Chapter 113

RECOMMENDATION: APPROVE

APPLICATION PROCESSING

Subject Application

On October 15, 2012, Christopher Holland, on behalf of Espresso Repair & Maintenance LLC, filed a Comprehensive Plan Change/Neighborhood Plan Change/Zone Change application to change the Comprehensive Plan Map designation of the subject property from Multi-Family Residential to Commercial and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial) and change the neighborhood plan map designation accordingly. The application was deemed complete for processing on November 13, 2012.

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 November 28, 2012 (Attachment 1).
2. The property was posted in accordance with the posting provision outlined in SRC 300.620.
3. State law (ORS 197.610) and SRC 300.602(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-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 hand delivered notice of this proposal to DLCD on November 13, 2012.

BACKGROUND INFORMATION

The subject property is 0.43 acres in size, and was annexed into the City of Salem in 1947. The property was originally developed as a 1,340 square foot service station with gas pumps and three service bays with roll-up doors, circa 1954. The property was used historically as a service station even after it was zoned Multiple Family Residential (RM) by the City of Salem in 1968, and has been used for commercial purposes intermittently for several years.

The subject property has been subject to an ongoing code enforcement action related to its commercial use. The owner, as recommended by Staff, has applied for a Comprehensive Plan Change and Zone Change to Commercial and Commercial Retail to reflect the property's historic use so that it is more marketable for sale.

Summary of Requested Action

The applicant is requesting an amendment to the Salem Area Comprehensive Plan (SACP) Map to change the Comprehensive Plan Map designation of the property from "Multi-Family Residential" to "Commercial", change the Highland Neighborhood Plan from "Single Family Residential" to "Community Shopping", and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial).

This change would allow the applicant to utilize the property for uses listed as either permitted or conditional under the CR zoning, including auto repair (as a conditional use).

Neighborhood Association Comments

SRC 300.620(b)(2)(B)(iii) requires public notice be sent to "any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property." The subject property is within the Highland Neighborhood Association. At the time of writing this staff report, no comments have been received from the neighborhood association.

Public Comments

At the time of writing this staff report, no comments have been received from adjoining property owners, or the public.

City Department Comments

Public Works (Development Services and City Traffic Engineer) – The Public Works Department, Development Services Section, reviewed the proposal and submitted comments (see Attachment 4). Public Works Department Staff reviewed the Transportation Planning Rule Analysis (TPR), dated September 14, 2012, that was submitted by the applicant and agree with the findings

of the TPR that the proposed plan amendment will not have a significant affect on the transportation system as defined by OAR 660-012-0060.

Police Department – The Police Department reviewed the proposal and indicated that they have no comments.

Fire Department – The Fire Department reviewed the proposal and indicated they have no comments.

Public and Private Agency Comments

Salem-Keizer Public Schools – The Salem-Keizer School District reviewed the proposal and indicated that they have no comments on this case.

Portland General Electric (PGE) – PGE reviewed the proposal and submitted the following comments:

PGE has not received any plans for a development yet. Development cost per current tariff and service requirements.

Salem Area Comprehensive Plan (SACP) Designation

Land Use: The Salem Area Comprehensive Plan Map designates the subject property as "Multi-Family Residential". The Comprehensive Plan designations of surrounding properties are as follows:

North: Across Bliler Street NE Right-of-Way, "Single Family Residential"
South: Across Tryon Street NE, "Multi-Family Residential"
East: Across Broadway Street NE, "Multi-Family Residential"
West: "Multi-Family Residential"

Neighborhood Plan: The property is located within the boundaries of the Highland Neighborhood Association. The Highland Neighborhood Plan designates the subject property as "Single Family Residential".

Applicable 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.

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. The subject property is located on Broadway Street NE, Tryon Street NE, and Bliler Street NE. At this location, Broadway Street NE is designated a 'Major Arterial' and Tryon Street NE and Bliler Street NE are designated as 'Local' streets.

Zoning

The subject property is currently zoned RM2 (Multiple Family Residential). Zoning of surrounding properties includes:

North: Across Bliler Street NE Right-of-Way, RS (Single Family Residential)
South: Across Tryon Street NE – RM2 (Multiple Family Residential)
East: Across Broadway Street NE – RM2 (Multiple Family Residential)
West: RM2 (Multiple Family Residential)

Existing Site Conditions

The subject property is an assembly of two lots at the end of a block, with frontage on public right-of-way along three sides. The site is flat.

Trees: The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. Compliance with the tree preservation requirements of SRC Chapter 68 (Preservation of Trees and Vegetation) and SRC Chapter 132 (Landscaping) is required.

Wetlands: According to the Salem Keizer Local Wetland Inventory (LWI) there are no mapped wetlands on the subject property.

Landslide Hazard Susceptibility: According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 69, Landslide Hazards, no landslide hazards exist on the subject property and no geologic assessment or geotechnical report is required for development.

Site Plan

A site plan is not required as part of a Comprehensive Plan Change/Zone Change application. The applicant did not submit a site plan in this case. The site is already partially developed with a small building previously used for automotive repair, and a small paved parking area. The applicant's written statement indicates that the owners intend to submit for a conditional use permit for continued use as automotive repair at the site, should this zone change to CR be approved.

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, which are included in their entirety as Attachment 2 to this staff report. Staff utilized the information from the applicant's statements to evaluate the applicant's proposal and to compose the facts and findings within the staff report.

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 (5) privately and separately owned tax lots. This request is a Category 4 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 (Attachment 2).

Criterion 1: **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 proposal must satisfy either Criterion 1A or 1B, or 2A or 2B. The applicant has chosen to address 1A, 1B, and 2A.

Applicant's Statement: This application is consistent with Sections (1)(A) and (B) as well as Section (2)(A) for the following reasons: (1) A review of the aerial photograph indicates there are few, if any, properties in the vicinity that would be suitable for the change to commercial, or have been amended to a 'commercial use'. (2) Land use in the vicinity is affected by development of the Salem Parkway and the development of the Fred Meyer complex to the northwest of the subject site.

Properties to the east of the subject property have been developed with both multiple-family and single-family uses and would not be considered available for any commercial orientation. South of the subject property (across Tryon Ave NE) development is still consistent with the residential orientation, and again, not generally convertible for commercial uses.

West of the subject property, across Broadway, is a church and to the northwest, the Salem Parkway/Broadway Intersection. North of that intersection is the Broadway Fred Meyer outlet, a large commercial development; but to the immediate north of the subject property is a cul-de-sac (Bliler Avenue) and single family homes that, due to access issues would not be reasonably available for commercial uses.

All of the major infrastructure (the Salem Parkway and Broadway intersection) and newer commercial uses on Broadway are developments which have occurred since the subject property was originally built as a 'service station', and which predates the Salem Comprehensive Plan. The subject property has not been utilized as a residential tract since at least 1954, and historically has been developed for commercial uses, with or without review by the City of Salem. This application, then, is consistent with Sections (1)(A) and (B) and 2(A).

Finding: The applicant intends to operate an automobile repair business at the site, using the existing building. The requested Commercial plan map designation, implemented by CR zoning, would also allow the applicant to redevelop the site for a number of other commercial uses, such as retail or business and professional services. Staff finds that the level of analysis conducted by the applicant is sufficient and Staff concurs with the applicant's chosen vicinity used for their alternate sites analysis, described above. The applicant has sufficiently demonstrated that there are no adequately sized or located alternate sites in the immediate vicinity that are appropriately designated for the proposed commercial use.

Staff also finds that the development of the Salem Parkway, located less than a block to the north of the site, created a major change in the circumstances of the area. The Salem Parkway was developed after the assignment of the Multi-Family Residential plan map designation was assigned. Access to the property is limited due to the site's close proximity to the Broadway / Salem Parkway intersection. However, there is sufficient access from Tryon Street for future commercial use at the

site. Specific driveway location and design will need to be reviewed by the Public Works Department at time of site plan review. The driveway may need to be moved farther from Broadway at that time. Criteria (1)(A)&(B) and (2)(B) are satisfied.

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

Applicant's Statement: The Statewide Planning Goals are the basis for all of the Comprehensive Plans for Cities, Counties and Special Districts in the State of Oregon. The following Statewide Goals apply to this proposed Plan Map Amendment and Zone Change:

GOAL 1 – CITIZEN INVOLVEMENT

The application will be reviewed consistent with the public review process established by the City of Salem, consistent with Goal 1. Notice of the application will be provided to property owners within the notice area, public agencies, published in the newspaper and posted on the property. The notice will describe the nature of the request and the applicable criteria. A public hearing to consider the request will be held by the Planning Commission. The notice and public hearing process allows all interested parties the opportunity to review and comment on the proposal, attend the public hearing(s), and participate in the process. These procedures provide *prima facie* evidence that the scope and intent of Goal 1 is met.

Finding: Appropriate notice was given, as outlined in this staff report, and satisfies Citizen Involvement described in Goal 1.

GOAL 2 – LAND USE PLANNING

The purpose of Goal 2 is to establish a land use planning process and policy framework as a basis for decisions involving land use, and to assure a factual basis exists for those decisions. The implementation strategies of this goal require cities and counties to develop, at a minimum, a Comprehensive Plan, a Zoning Ordinance and a Subdivision Ordinance. The City of Salem has adopted, and has had acknowledged by LCDC (Land Conservation and Development Commission), the Salem Area Comprehensive Plan (SACP) and a zoning ordinance. These documents provide the controlling criteria for reviewing amendments; thus compliance with the criteria established by the Plan and Zoning documents, supported by fact, indicates that the proposal is consistent with the appropriate Goal.

Finding: The Salem Area Comprehensive Plan (SACP) is acknowledged to be in compliance with the Statewide Planning Goals.

GOAL 6 – WATER AND LAND RESOURCES QUALITY

The subject property has been developed in its current configuration for over 50 years, and the use is consistent with urban densities and uses. Public facilities are in place to serve the site with water, sewer, storm drainage and streets. Since the property is within the City Limits, the public facilities noted above are provided by the City of Salem, including water (which - precludes withdrawal from subsurface groundwater resources), sewer (sewage collection and treatment exists to the property), and storm drainage (collection and distribution), all of which insures that there will be no discharge of waste water or storm water directly to a body of water of the state or into the ground, complying with the provisions of Goal 6, which is to maintain and improve the quality of air, water and land resources of the state.

Finding: Staff concurs with the applicant. Through the use of public facilities the wastewater and surface water discharges from the property will be managed according to approved standards. The proposed plan and zone change will have no significant impact on the quality of the air, water or land.

GOAL 7 – AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

The purpose of Goal 7 is to protect people and property from natural hazards such as earthquake, flood, tsunamis and wildfire. A review of the data surrounding this property indicates that no natural

hazards have been identified that are specific to the property, based upon the landslide hazard maps, existing topography and urban location except for the fact the property does lie within a floodplain. However, based upon existing levels of development both on site and in the area, and the scope of the storm drain system constructed for the area, flood hazard appears to be at a minimum. Keeping this in mind (and acknowledging flood insurance may be required), the proposal does not conflict with Goal 7.

Finding: Staff concurs with the applicant's statement. The proposed plan amendment and rezone do not conflict with Goal 7 for the reasons stated by the applicant.

GOAL 9 - ECONOMIC DEVELOPMENT

Finding: The site has not redeveloped under the current Multi-Family Residential designation. The proposed Comprehensive Plan Map Change to Commercial and corresponding Zone Change to CR will result in an additional supply of commercially zoned land in the vicinity, thereby providing a greater variety of commercial services and economic opportunities as called for by this goal.

GOAL 10 – HOUSING

Goal 10 is to provide for the housing needs of the State. The City of Salem, in demonstrating compliance with this goal, designated the property as RM, a multiple-family housing zone, back in 1968, despite the fact the property was developed as a service station. However, the shape, size, existing level of development and location of the property (abutting Broadway and a scant half block from the Salem Parkway, and limited access only to Tryon Avenue) has precluded sale of the property for any residential use for years.

A review of the zoning as provided by SRC 148.370 indicates that the 'gross' level of development to an RM2 standard would allow up to 13 multiple-family dwelling units on the tract. However, applying setbacks, parking and access criteria, and given the shape of the parcel, that gross level of development would be lowered to approximately 9 'net' dwelling units. While this proposal will remove this small parcel from the existing inventory of land designated for multi-family housing, it is very unlikely this parcel would ever be utilized for that use as it is not economically viable to make that change; the cost of removing an existing commercially-oriented structure and then building on a site with limited access is currently prohibitive.

Finding: The subject property is approximately 0.43 acres in size. The proposed Comprehensive Plan Change and Zone Change will not have a significant impact on the ability of the City to provide for its projected housing needs. The property has been used for commercial purposes for over 50 years, and it is not anticipated that the property will be redeveloped for multi-family housing primarily due to the small site size. Staff finds that the proposal is consistent with this goal.

GOAL 11 – PUBLIC FACILITIES AND SERVICES

Goal 11 provides that cities and counties are to plan and develop a '...timely, orderly and efficient' arrangement of public facilities and services to serve as the framework for development. The City of Salem currently operates and maintains such an infrastructure including water, sewer, storm drainage and streets that provide the basic framework for urban levels of development. These facilities currently serve the subject property, and the current proposal; a simple zone change with no proposed change to the physical orientation of the property, will not require additional services or levels of service. The proposal is consistent with the provisions of Goal 11.

Finding: Staff concurs with the applicant's statement. The City maintains an infrastructure of public facilities and services as the framework for urban development. These facilities already serve the subject property. The proposal is consistent with this goal.

GOAL 12 – TRANSPORTATION

Goal 12 is the transportation goal, which simply states, it is a goal of the statewide plan to provide and encourage a safe, convenient and economic transportation plan. The City of Salem has adopted a TSP, or Transportation Systems Plan, that addresses the various policies and strategies contained in the Goal, including suggestions that population densities and peak hour travel patterns

of existing and planned developments should be considered in the land use process. To demonstrate compliance with the goals and policies of the TSP, a Trip Generation Study has been prepared by a licensed traffic engineer (Access Engineering, LLC) to demonstrate the impacts of the proposed plan and zone change.

The trip generation comparison indicates that there would be no increase in peak hour trips resulting from the proposal before the City of Salem if the property were built to a Specialty Retail use; additionally, the proposed re-establishment of the car repair business would result in a reduction of peak hour trips.

Based upon the information in the Trip Generation Study, this proposal is consistent with the provisions of the TSP, and Goal 12.

Finding: Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule (OAR) 660-012-0060. This provision is triggered by amendments to comprehensive plans and land use regulations that "significantly affect" a surrounding transportation facility (road, intersection, etc.). Where there is a "significant effect" on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a "significant affect" is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either an amendment that "allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility", or an amendment that would "reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP."

The applicant for a comprehensive plan change is required to submit a Transportation Planning Rule (TPR) analysis to demonstrate that their request will not have a "significant affect" on the surrounding transportation system, as defined above.

In this case, the applicant has submitted a TPR analysis addressing the Transportation Planning Rule (Attachment 3). The analysis demonstrates that the number of trips generated if the site were fully developed with apartments under the existing RM2 zone would be the same or exceed the likely number of trips generated under the proposed CR zoning. Therefore, the analysis concludes that the proposed plan amendment and zone change will not have a significant effect on the transportation system as defined by OAR 660-012-0060.

The City Traffic Engineer has reviewed the TPR Analysis that was submitted by the applicant and agrees with its findings. The proposed Comprehensive Plan Change and Zone Change will not have a "significant affect" on the transportation system as defined by OAR 660-012-0060.

GOAL 13 – ENERGY CONSERVATION

The subject parcel is located in a developed part of the urban area, abutting a major arterial (Broadway) and a half-block from the Salem Parkway/Broadway intersection. This proximity to major transportation corridors makes access to the property generally direct, efficient and convenient. Maintaining the business orientation of the property can be found to be more energy efficient, given the relative locations of related businesses. The continued use of this site for commercial purposes can be found to be supportive of a compact urban form, and to provide for a limited amount vacant land for commercial purposes to serve the nearby residential areas. The proposal is in general compliance with the purposes of Goal 13, to maximize conservation of energy, based upon sound economic principles.

Finding: The proposal will allow commercial services at an urban location, with convenient access to surrounding residents. The convenient location, near potential customers and employees, will serve to reduce the energy used by area residents and is consistent with the energy conservation

requirements of this goal. In addition, the site is already developed for commercial activities and the request will simply allow the reuse of the site for commercial purposes. This is an efficient use of resources and is consistent with this goal.

GOAL 14 – URBANIZATION

Goal 14 provides for an orderly and efficient transition from rural to urban land uses, to accommodate urban population and employment levels, to ensure efficient use of land, and provide for livable communities.

This application does not affect urban growth areas, as the property has been within the City of Salem for years. The change in land use designation from Residential to Commercial is consistent with the historical use of the property, consistent with the orientation of commercial enterprise along the major arterials, and eliminates a non-conforming status that has been the source of code enforcement.

Finding: Staff concurs with the facts provided by the applicant. The proposal does not affect the Urban Growth Boundary and is consistent with the goal to maintain a compact and efficient urban area. This proposal complies with Goal 14.

In conclusion, considering the facts, evidence, and reasons presented, the proposed Comprehensive Plan Change conforms to the applicable Statewide Planning Goals.

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

Applicant's Statement: The subject property has been utilized as a commercially-oriented auto repair shop and/or service station since the 1950s. The location is close to the Salem Parkway, fronts on a major arterial, and is not inconsistent with the development pattern in the general vicinity. The map amendment and zone change will eliminate a non-conforming situation, and allow the property owner to continue to operate a commercial business on the site, within the scope of the new zoning district.

The 'greater area' referred to in SRC 64.090(b)(4) should include the area surrounding the Salem Parkway/Broadway intersection. While the subject property is on the southern fringe of that area, there are numerous commercial uses along both major transportation corridors providing goods and services to abutting neighborhoods.

The Fred Meyer center, which is northwest of the subject property, is a prime commercial center, and the general orientation of the subject property lends itself better to a commercial use than one of residential, again due to the frontage, access, and ability to buffer the residential uses to the east. The historical orientation of the property is not inconsistent with the development pattern in the greater area.

Finding: Staff concurs with the applicant's statement. The subject property has operated as a commercial use for over 50 years. The Broadway / Salem Parkway intersection area is characterized by a mix of commercial and residential uses. The proposed plan map amendment to commercial is consistent with the surrounding land use pattern, and is a logical change given the mix of commercial and residential surrounding uses and historical use of the site. If changed to Commercial, the site would represent the southern extent of commercial designation for the intersection area.

The existence of a Multi-Family Residential property developed with a small apartment complex on the land abutting to the east provides a necessary buffer between the proposed commercial designation of the site and the existing single family residential lands farther to the east. This criterion is met.

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

Applicant's Statement: Comprehensive Plans are essentially designed to promote the most desirable pattern of land use, taking into account the various factors that apply such as public facilities, transportation, and the needs of the citizens in terms of maintaining an efficient, safe and healthful urban environment. The Intent Statement of the Salem Comprehensive Plan (Part II, Statement A) notes the intent of the Salem Comprehensive Plan is to recognize the need to remain responsive to the changing and evolutionary character of land use demands within the context of plan policies and the implementation strategies. The Salem Comprehensive Plan recognizes that land use and zoning are expected to change as conditions in the community change.

In the vicinity of the subject property, the City of Salem has seen significant alteration of the land form, particularly after the Parkway was completed. Planning and Zoning changes allowed the development of the Fred Meyer center and other related land uses in the area. In this case, however, the property has always had a commercial orientation, first as a service station, then an ODOT facility, and, since 1981, used by the owner as a vehicle repair center. The proposal to bring the zoning into conformance with the existing use eliminates a non-conforming situation, which is also consistent with the plan policies to eliminate nonconforming situations whenever possible. It is important to note this property has never been used for multi-family uses since it was first zoned that way in 1968.

The proposal is consistent with the intent of the Plan to retain flexibility, remain responsible for dealing with changing conditions, and to recognize the need for changing land uses as conditions change. For all of these reasons, the request for the map amendment and zone change is consistent with the expressed intent of the Comprehensive Plan.

Plan Map Designations:

Applicant Response: The property in question is proposed to be designated as Commercial on the Comprehensive Plan Map. The intent of the 'Commercial' designation is described in Part II 3. c. of the Comprehensive Plan. This designation describes commercial uses that exist throughout the Salem urban area, and provide for shopping and service opportunities, including both community uses (such as Fred Meyer) and local neighborhood facilities such as the subject property. These shopping and service facilities are implemented via the CR zone, thus this application is consistent with the definitions as contained in the Plan.

Part IV: Salem Urban Area Goals and Policies:

The application must address the applicable goals and policies from the Salem Area Comprehensive Plan, as noted below:

B. General Development: Goal: This goal is "To insure that future decisions concerning the use of land within the Salem Urban Area are consistent with the Statewide Land use Goals."

Applicant Response: As noted above, the application for a Map Amendment and Zone Change has been reviewed against the applicable State Land Use Goals. The application has been demonstrated to be consistent with the applicable Statewide Land Use goals, and thus is consistent with this Salem Plan Goal.

Policies:

Policy 4, Energy: *"The city and county shall consider and foster the efficient use of energy in land use and transportation planning."*

Applicant Response: A primary issue pertaining to efficient energy use is limiting the necessity for long distance or long duration vehicle trips. This particular request will contribute to the livability of

the area by providing a service-oriented parcel conveniently located for neighborhood access, but also provides a convenient and efficient location for the past and future use (auto repair) that is dependent upon the existing transportation corridors for an efficient and effective location and access.

Policy 7: Optimal Use of the Land: *"Structures and their siting in all residential, commercial, and industrial developments shall optimize the "use of land."*

Applicant Response: As noted, this less than a half acre of land is not adequately suited for the future development of multiple-family residential housing, due to size, shape of the parcel, and access issues. The optimal use of the land is the continued small-scale commercial orientation of the property. It is clear that such parcels have been reviewed in the past by the City of Salem, and generalized information from the real estate community supports the continued commercial oriented use, and changing the zoning and plan designation to eliminate a non-conforming use situation.

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."*

Applicant Response: This application, if approved, will remove less than one-half acre (0.43 acres) from the 'multiple-family' land use inventory. This level of change simply will not have a significant impact on the ability of the City to provide for an adequate supply of developable land for multiple-family projects. Given the location of the site (on Broadway, and just south of the Salem Parkway), any residential development would be subject to the impacts of the traffic, on those two corridors, including traffic noise from both private autos and commercial trucks, exhaust fumes, and light pollution at night.

This property has no special features that would represent an advantage for multiple family developments, and the size, location and orientation of the property does represent a better location for commercial uses. The site is and would be difficult to develop for multiple family use due to its size and limited access (off Tryon Avenue).

For these reasons, maintaining the property in a residential configuration simply is not consistent with the residential development goal.

G. Commercial Development: Goal: *"To maintain and promote the Salem urban area as a commercial center for the Marion-Polk County metropolitan area."*

Policy 5: *"Neighborhood and Community Shopping and Service Facilities. 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 the neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods."*

Applicant Response: The subject property has been utilized as a commercial property since before the City of Salem zoned the land in 1968. However, it does not contribute to a 'strip development' concept since lands both north and south of the property are zoned for residential uses. The proximity of the property to the Parkway, and being located on Broadway, clearly shows that site has been beneficial to the owner in terms of location, and it has not been detrimental to the residential character of the properties in the immediate neighborhood. The location is in a convenient site next to a major arterial, and is consistent with this policy.

Finding: Staff concurs that the proposal complies with the applicable goals and policies of the Salem Area Comprehensive Plan. The Plan recognizes the need to remain responsive to changing and evolving land demands within the context of Plan policies and implementing measures. As documented in the applicant's statements above, the proposal is consistent with the Goals and Policies of the SACP. Considering the facts, evidence and reasons presented, the proposed

Comprehensive Plan Map change from “Multi Family Residential” to “Commercial” conforms to all applicable Statewide Planning Goals and Comprehensive Plan Policies.

Criterion 6: The proposed change benefits the public.

Applicant’s Statement: The proposal before the City of Salem will place the property in a zoning district that is more reflective of its past use, its location, size, and the general land use pattern in the vicinity. The location, along a major arterial, and just south of the Parkway and a major intersection, reflects the commercial need for such properties in close proximity to these corridors, while not taking access or creating traffic problems on those corridors. The proposed land use is appropriate for the neighborhood, being neighborhood-oriented in scale (unlike a major use such as Fred Meyer, Target or Wal-Mart), and yet close enough to the transportation corridors as to provide visibility for prospective clients. The location is advantageous to the owner, the city, and the general public at large, a fact demonstrated by the over 30 years of use of the site as a commercial property [by this owner]. Thus, the site does benefit the public, and satisfies the criteria for a minor Comprehensive Plan change.

Finding: The proposed Comprehensive Plan change to Commercial will benefit the public by allowing an existing commercial building to continue to operate and serve the surrounding area as a use that conforms to the underlying zone and Comprehensive Plan designation. Staff concurs with the facts presented by the applicant’s representative as stated above and concludes that the proposed Comprehensive Plan change satisfies this approval criterion.

FINDINGS APPLYING TO THE HIGHLAND NEIGHBORHOOD PLAN MAP AMENDMENT

Findings: The subject property is located within the Highland Neighborhood Association. The Highland Neighborhood Plan was adopted by the City Council on June 11, 1984. The Plan has not changed since that time.

The Highland Plan includes a Land Use Plan Map, which designated the subject property as “Single Family Residential”. That designation is inconsistent with the SACP designation of Multi-Family Residential.

The Highland Plan presents Intent Statements for its various land use designations. The land use designation that is closest to the Commercial SACP designation with CR zoning proposed for the subject property is the “Community Shopping” designation. The Highland Plan’s Intent statement for Community Shopping is:

Community Shopping: The intent is to provide locations for a wide variety of goods and services, including both convenience stores for neighborhood residents and shopping facilities for a market area consisting of several neighborhoods.

The proposal is consistent with this Intent statement, as the anticipated use of the site is an automotive repair shop that will likely serve “several neighborhoods”. Possible future commercial uses at the site, located along an arterial street, could include a number of retail or business services intended to serve the larger community. For these reasons, the proposal best fits the “Community Shopping” neighborhood plan map designation.

The Highland Plan also contains Neighborhood-Wide Policies and Goals, and Goals and Policies applicable to specific “subareas”. The subject property is located within “Subarea C: Highland Residential Core Area”. There are no policies directly applicable to this proposal, but the following general goal for Subarea C is addressed below:

14. Goal: The goal is to prevent encroachment on the single-family core area of Highland from more intensive uses.

The proposed comprehensive plan map change and zoning amendment with neighborhood plan map change to "Community Shopping" will not result in an encroachment of more intensive uses into the single family core area because the subject property has been developed and used for commercial development for many decades. The intent of this goal is clearly to prevent "*more intensive*" uses than have historically existed in the subarea. The auto repair use at this site is a long-established use in the subarea, and its continued existence will not create a more intense use of land in the subarea beyond the intensity of use that has already existed at that location. Based on these factors the proposal is consistent with this goal.

Because it is consistent with the "Community Shopping" Intent Statement, and applicable Neighborhood Plan Goals, the proposal conforms to the Highland Plan.

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 RM2 (Multiple Family Residential) to CR (Retail Commercial).

SRC Chapter 113.150 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 is required, but the degree of detail in the treatment of relevant factors depends 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 (Attachment 2).

Criterion (a): The applicant for any quasi-judicial zone change . . . has the burden of proving justification for the change. The greater the impact of the proposed zone change on the area, the greater the burden of proving the justification on the proponent.

Finding: In order to measure the impact of this request Staff compared the nature of the potential uses allowed under the proposed CR zone to the uses allowed under the existing RM2 zone and the character of the existing land uses in the neighborhood. An auto repair shop has operated at the site for approximately the past 30 years at the site as a nonconforming use zoned RM2. As already stated in this report, there is a large commercial retail shopping complex established across the Salem Parkway to the north of the site, along with a number of apartment complexes and single family dwellings up and down Broadway Street. The CR zone allows a range of commercial retail and office uses, which are of equal or lower impact than these existing commercial uses located nearby to the north. Staff finds that the impact of the zone change to CR is consistent with the existing land use pattern of the Broadway Street / Salem Parkway intersection. Based on this, Staff finds that the applicant's statement and the body of evidence presented in the case file correspond to the anticipated impact of the zone change proposal.

Criterion (b): The proposal must be supported by proof that the proposed zone change is consistent with goals and policies of the Comprehensive Plan in light of their intent statements; those portions of adopted neighborhood plans that are part of the Comprehensive Plan; and any standards imposed by state land use law.

...

Finding: SRC 113.150(b) requires a zone change to conform to the standards imposed by the applicable goals and policies of the Comp Plan. The relationship of the proposal to the Comp Plan has been examined, and the proposal has been shown to conform to the requirements of the Plan.

Criterion (b): . . . In addition, the following factors should be evaluated by the Review Authority, and shall be addressed in the decision:

Factor 1: The existence of [a] mistake in the compilation of any map, or in the application of a land use designation to the property;

Applicant's Statement: The applicant believes that there was indeed a mistake in zoning of the property, and placing a 'multiple-family' land use designation on the site, given that the property has, since the early 1950's, been developed in a commercially-oriented use, first as a service station, then in the 1970's as an ODOT vehicle storage and repair location, and for the last 30 years or so, as a auto repair facility.

SRC 113.100(a) notes that "because of normal and anticipated growth of the city, changing development patterns and concepts, governmental policy decisions affecting land use, community needs and other factors whose specific future application at any given time cannot be precisely anticipated and implemented legislatively, the zoning pattern on the official zoning map cannot remain static..."

The property was zoned RM by the City of Salem in 1968, in anticipation of a land use pattern developing in the vicinity for multiple family developments. However, this property has never been utilized for that purpose, so the anticipated use never materialized, in part since the property had been in a commercial use for years. Since all of the properties surrounding this site have been developed, it is no longer possible for the property to be developed in conjunction with larger adjacent parcels.

While the existing designation does not necessarily represent a mistake in terms of a residential housing policy per se, the residential land use designation is no longer consistent with the changes and developments in the area that have increased the commercial uses in this general vicinity. This property, its historical orientation, location, and character of the area simply are not reflective of the RM2 zone.

Finally, the concept of 'mistake' is clearly exemplified by the fact the property has been subject to a 'non-conforming use' determination, and despite the character of the structures on the property and the 30-year history of commercial use, the Staff has determined the only solution for the owner is to apply for a plan map and zoning amendment to protect the investment he made over 30 years ago. This application, then, is the appropriate solution to a land use issue arising from the zoning of the property in 1968.

Finding: Although the applicant's statements above do have merit, Staff has found no mistakes in the application of the Comprehensive Plan designation or zone of the subject property. This factor has been addressed and is not applicable.

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

Applicant's Statement: It appears obvious that there has been a change in the economic patterns of this area in the last 30 years, including significant changes in the infrastructure for transportation facilities in particular. The economic pattern of the area now is stable, and the use of the property for a commercial operation (auto repair) is part of that pattern, and has been for some years. The size, location and shape of the tract simply does not lend itself to development as it is currently zoned, and the non-conforming status of the property has become an issue for the City and the property owner, and is a reasonable factual basis for the proposed change in the land use designation and zoning.

Finding: The intent and purpose of zone changes, as stated in SRC 113.100(a), recognizes that zoning cannot be precisely anticipated and provides a procedure to review site-specific applications. Staff concurs with the applicant's statement that the change in transportation facilities nearby (Salem Parkway) has contributed to a pattern of local economic change from residential to mixed commercial and residential uses in the immediate vicinity. This pattern of community change, together with the fact that the subject property's size and location is not well suited to the uses permitted by its current multiple family zoning, are good cause for a zone change to commercial. This factor has been addressed.

Factor 3: A change of conditions in the character of the neighborhood;

Applicant's Statement: Like any vibrant city, this area has seen change over the past thirty years, although the use of the subject parcel has remained virtually the same. The growth in the vicinity has taken place north of this site (across the Parkway) but the impacts of the commercial growth in the area have spread, primarily due to the impacts of traffic on Broadway and the Parkway. Amending the land use designations on this site to clearly reflect the actual use that has occurred there over the last 30 years appears to be a reasonable and effective way to address and solve an issue of nonconformity that has been in place for years.

Finding: Staff concurs with the applicant's reasons above that the character of the neighborhood has changed. This factor has been addressed.

Factor 4: The effect of the proposal on the neighborhood;

Applicant's Statement: The proposal before the City, to amend the Plan and Zoning on the property to a commercial designation that reflects the actual and historic use of the property, will have little or no effect on the neighborhood. The site has, for over 50 years, been utilized as a commercial property. Because of the size of the tract, any future development on the property will be limited to small-scale retail or service oriented businesses because of parking restraints and other physical limitations, all of which conspire to minimize the risk of any potential significant impacts on the neighborhood. The proposed zone change will allow the subject property to continue to provide small scale services to benefit the local area.

Finding: Staff agrees with the applicant's statement. Because the property has historically been used for commercial purposes, it is not likely that there will be any noticeable change to the character of the neighborhood with the granting of the applicant's request. The zone change will help facilitate the productive reuse of the site. Possible future commercial uses allowed on the property under the proposed CR zoning will increase the availability of services provided to the surrounding neighborhood. This factor has been addressed.

Factor 5: The physical characteristics of the subject property, and public facilities and services; and

Applicant's Statement: As has been noted above, the subject property is less than half an acre in size (0.43 acre) and is a long, narrow parcel that grows even narrower at the north end due to the widening of Broadway as it approaches the Salem Parkway intersection. Although the property has frontage on Broadway, access is limited to a 60-foot wide driveway off Tryon Avenue NE. While the property has access to, and is served by, the City of Salem in terms of water, sewer, and storm drainage, and those facilities are adequate to serve the commercial use on site, those facilities would by necessity need to be enlarged and/or expanded if any multiple-family development would be proposed. Again, given the size of the parcel, the probability of that occurring is limited to nonexistent. In total, the commercial use of the site is the most reasonable and effective use of the property given its size, shape, configuration, and location.

Finding: Staff considered the potential effects of the proposed zone change on the public facilities of the neighborhood. The proposal will have a limited affect on public services, most of which are

already sufficient to serve the subject property. The City Traffic Engineer has reviewed the applicant's Transportation Planning Rule (TPR) Analysis and agrees with the findings and conclusion that the request will not have a significant effect on the surrounding transportation system. This factor has been addressed.

Factor 6: Any other factor that relates to the public health, safety, and general welfare that the Review Authority identifies as relevant to the proposed change;

Applicant's Statement: The most critical factor that has been delineated by the Staff is the fact that the property has been in commercial use for over 30 years, but, due to a determination arising from the Code Enforcement actions, the 'legal' non-conforming status was not sustained. There are two solutions to the dilemma: (1) develop the property in a use consistent with the RM2 zone, or (2) change the zoning to reflect the historical, current and anticipated use of the property.

Under the current zoning, the property is essentially unusable, and development to an 'RM2' standard simply is not economically or reasonably feasible due to the size, shape, and configuration of the tract. Improvements to the property to accommodate the RM2 uses, including systems development charges, simply would be too expensive given the limited number of units that realistically could be accommodated. Access for over 9 units would be problematic as well. The zone change is the most reasonable solution to the issues facing this tract.

Finding: Staff concurs with the statements submitted by the applicant's representative as set forth above and concludes that each of the factors have been addressed, therefore the proposed zone change conforms to the criteria for zone change approval of SRC 113.150.

CONCLUSIONS

Applicant's Conclusion: In conclusion, the proposed plan map amendment and zone change from multiple-family residential to commercial is appropriate, for the following reasons:

1. The application has demonstrated that the proposal is consistent with all of the requirements of the Salem Revised Code for a minor Plan Map Amendment and a Zone Change.
2. The subject site has historically been used for commercial purposes since at least 1954. The application of RM zoning to the property in 1968 was done in anticipation of a growth in that land use designation that has not developed. Thus, the zoning on site is currently inappropriate. This is further demonstrated by the Code Enforcement issues arising from the use of the property, and the fact the plan and zoning change was suggested by Staff as the most reasonable solution to the dilemma.
3. The site is very unlikely to develop in a multiple-family mode due to size, shape, configuration, minimal access, and the need to expand public facilities such as water, sewer and storm drainage connections.
4. Finally, the proposal is consistent with, and is in compliance with the applicable Goals and Policies of the Salem Area Comprehensive Plan and the Statewide Planning Goals, and satisfies all applicable criteria.

Based upon the application and the information and facts contained in this presentation, the proposed Minor Comprehensive Plan Amendment and Zone Change should be approved.

Staff Conclusion: Staff concurs with the statements submitted by the applicant's representative, as set forth above, and concludes that each of the factors has been addressed. Therefore, the proposed zone change conforms to Criterion B as defined under SRC 113.150(b).

The proposal is consistent with and in compliance with the applicable goals and policies of the Salem Area Comprehensive Plan and the Statewide Planning Goals and satisfies all applicable criteria.

Based on the facts and findings presented by the applicant, staff concludes that the proposed amendment meets the criteria for approval. The applicant met their burden of proof in satisfying the Statewide Planning Goals, and the evaluation of factors for zone change defined under SRC 113.150, thereby meeting the approval criteria for a zone change.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the facts and findings of the staff report and **APPROVE**, by resolution, the following actions for Comprehensive Plan Change/Neighborhood Plan Change/Zone Change 12-09, for property 0.43 acres in size, and located at 2710 Broadway Street NE, 97301 (Marion County Assessor's Map and Tax Lot numbers: 073W14BB / 04901):

- A. That the Salem Area Comprehensive Plan (SACP) map designation change request for the subject property from "Multi-Family Residential" to "Commercial" be GRANTED.
- B. That the zone change request for the subject property from RM2 (Multiple Family Residential) to CR (Retail Commercial) be GRANTED.

Attachments:

- 1. Public Hearing Notice and Map
- 2. Applicant's Statement Addressing Comprehensive Plan Change/Zone Change Approval Criteria
- 3. Transportation Planning Rule Analysis, dated September 14, 2012
- 4. Public Works Department Comments

Prepared by: Bryan Colbourne, Planner III



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HEARING NOTICE

LAND USE REQUEST AFFECTING THIS AREA

Audiencia Pública

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

CASE NUMBER:	Comprehensive Plan Change / Neighborhood Plan Change / Zone Change Case No.CPC-NPC-ZC12-09
AMANDA APPLICATION NO:	12-116239-ZO
HEARING INFORMATION:	Planning Commission, Tuesday, December 18, 2012 at 5:30 p.m. , Council Chambers, Room 240, Civic Center
PROPERTY LOCATION:	2710 BROADWAY ST NE, SALEM OR 97301
OWNER:	ESPRESSO REPAIR & MAINTENANCE LLC
APPLICANT:	GREG HOLLAND dba ESPRESSO REPAIR
AGENT:	CHRISTOPHER HOLLAND
DESCRIPTION OF REQUEST:	<p>To change the Salem Area Comprehensive Plan (SACP) Map designation from Multi-Family Residential to Commercial and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial) and change the neighborhood plan map designation accordingly on property 0.43 acres in size, and located at 2710 Broadway Street NE - 97301 (Marion County Assessor's Map and Tax Lot numbers: 073W14BB / 04901).</p>
CRITERIA TO BE CONSIDERED:	<p><i>Comprehensive Plan Change & Neighborhood Plan Change</i> Pursuant to SRC 64.090, the testimony and evidence for the COMPREHENSIVE PLAN CHANGE must be directed toward the following criteria:</p> <ol style="list-style-type: none">1. A lack of appropriately designated suitable alternative sites within the vicinity for a proposed use in regard to (a) size, or (b) location; or2. A major change in circumstances affecting a significant number of properties within the vicinity such as: (a) the construction of a major capital improvement, or (b) previously approved plan amendments for properties in the area; and3. The proposed plan change considers and accommodates as much as possible all applicable statewide planning goals; and4. The proposed change is logical and harmonious with the land use pattern for the greater area as shown on the detailed and general plan maps; and5. The proposed change conforms to all criteria imposed by applicable goals and policies of the comprehensive plan in light of its intent statements; and6. The proposed change benefits the public. <p><i>Zone Change</i> Pursuant to SRC 113.150(b), the testimony and evidence for the ZONE CHANGE must be directed to the following criteria:</p> <ol style="list-style-type: none">1. The existence of a mistake in the compilation of any map, or in the application of a land use designation to the property;2. A change in the social, economic, or demographic patterns of the neighborhood or the community;3. A change of conditions in the character of the neighborhood;4. The effect of the proposal on the neighborhood;5. The physical characteristics of the subject property, and public facilities and services; and6. Any other factor that relates to the public health, safety, and general welfare that the Review Authority identifies as relevant to the proposed change.

**HOW TO PROVIDE
TESTIMONY:**

Any person wishing to speak either for or against the proposed request may do so in person or by representative at the Public Hearing. Written comments may also be submitted at the Public Hearing. Include case number with the written comments. Prior to the Public Hearing, written comments may be filed with the Salem Planning Division, Community Development Department, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision.


HEARING PROCEDURE:

The hearing will be conducted with the staff presentation first, followed by the applicant's case, neighborhood organization comments, testimony of persons in favor or opposition, and rebuttal by the applicant, if necessary. The applicant has the burden of proof to show that the approval criteria can be satisfied by the facts. Opponents may rebut the applicant's testimony by showing alternative facts or by showing that the evidence submitted does not satisfy the approval criteria. Any participant may request an opportunity to present additional evidence or testimony regarding the application. A ruling will then be made to either continue the Public Hearing to another date or leave the record open to receive additional written testimony.

Failure to raise an issue in person or by letter prior to the close of the Public Hearing with sufficient specificity to provide the opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

Following the close of the Public Hearing a decision will be issued and mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision.

CASE MANAGER:

Bryan Colbourne, Case Manager, City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Telephone: 503-540-2363; E-mail: bcolbourne@cityofsalem.net 

**NEIGHBORHOOD
ORGANIZATION:**

Highland Neighborhood Association, Robert Hornaday, Land Use Chair; Phone: (503) 363-7265; Email: rhornaday@juno.com

**DOCUMENTATION
AND STAFF REPORT:**

Copies of the application, all documents and evidence submitted by the applicant are available for inspection at no cost at the Planning Division office, City Hall, 555 Liberty Street SE, Room 305, during regular business hours. Copies can be obtained at a reasonable cost. The Staff Report will be available seven (7) days prior to the hearing, and will thereafter be posted on the Community Development website:

www.cityofsalem.net/Departments/CommunityDevelopment/Planning/PlanningCommission/Pages/default.aspx

ACCESS:

The Americans with Disabilities Act (ADA) accommodations will be provided on request.

NOTICE MAILING DATE:

November 28, 2012

PLEASE PROMPTLY FORWARD A COPY OF THIS NOTICE TO ANY OTHER OWNER, TENANT OR LESSEE.

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Development Department at 503-588-6173 at least two business days before this meeting or event.

TTD/TTY telephone 503-588-6439 is also available 24/7

Vicinity Map 2710 Broadway Street NE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

Parks

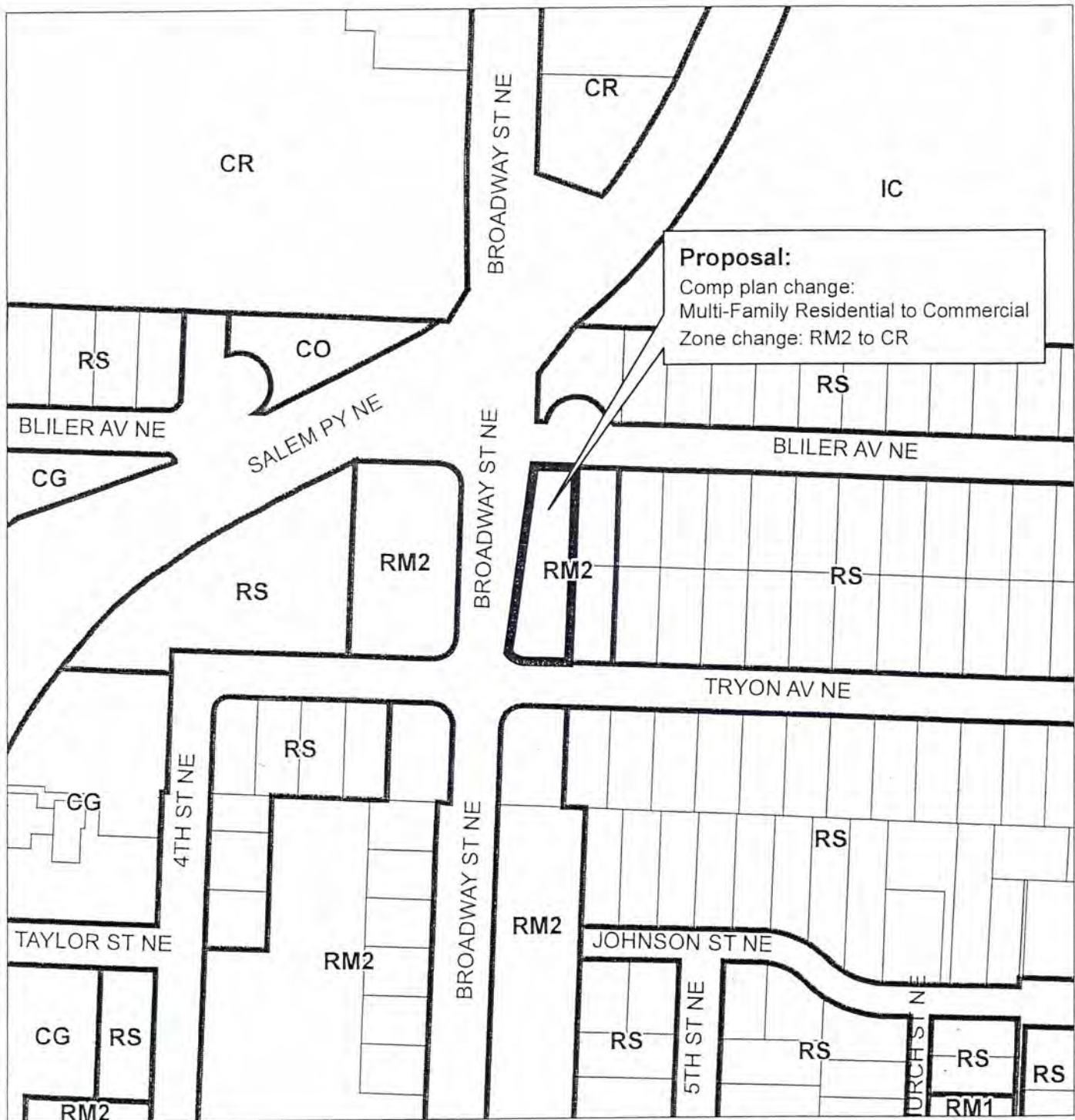
CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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Comprehensive Plan Change/Neighborhood Plan Change/ Zone Change 12-09



Legend

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

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

APPLICANT'S STATEMENT IN SUPPORT OF PROPOSED
MINOR COMPREHENSIVE PLAN MAP AMENDMENT AND
ZONE CHANGE:

I. Background Information

- A. Applicant: Greg Holland, dba Espresso Repair & Maintenance
1090 Hood Street NE
Salem, OR 97301
- B. Agent: Christopher Holland, dba Holland Homes
1915 24th Street NE
Salem, OR 97301
- C. Situs Address: 2710 Broadway Street NE
Salem, OR 97301
- D. Request: A Minor Comprehensive Plan Amendment and Zone
Change for the subject property
- E. Existing Zoning: RM2 (Multi-Family Residential)
- F. Proposed Zoning: CR (Retail Commercial)
- G. Existing Comp. Plan: Multi-Family Residential
- H. Proposed Comp. Plan: Commercial
- I. Existing Site Conditions:

The subject property is a parcel of just .44 acres, annexed into the City of Salem in 1947. The property was originally developed as a 1340 square foot service station with gas pumps and three service bays with roll-up doors, circa 1954. The property was used historically as a service station even after it was zoned RM2 by the city of Salem in 1968, an action by the City that created a pre-existing, non-conforming use situation.

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COMMUNITY DEVELOPMENT

ATTACHMENT 2

There is some evidence that the original owners (a Mr. And Mrs. Ray) leased the property for several years in the early 1970's when it was used for travel trailer and camper sales, but reverted to being used as a service station/auto detail shop in 1973.

The property was purchased in 1979 by the Oregon Department of Transportation (ODOT) and utilized as a location to store and repair fleet vehicles. There is presumptive evidence the gas pumps were removed and the gas tanks decommissioned during the State of Oregon ownership.

The property was then leased in 1981 by the State of Oregon to the current owner, Greg Holland, as "*...the gas station building at 2710 Broadway NE, Salem, Oregon*". Beginning that year, Mr. Holland operated a Volkswagen repair facility known as "The Wagen Werks" for over 28 years, purchasing the property from the State in 1988. When Mr. Holland decided to retire in 2008, he sold the business name (leasing the property) to another individual, a Michael Fischer, who accumulated trash, junk cars and failed to maintain the property, resulting in enforcement actions by Community Development. During the discussions related to the enforcement action, the City of Salem contended since the property stopped being a service station and was used for travel trailer sales in the 1970's, the "pre-existing, non-conforming status" was eliminated. The applicant has attempted to market and sell or lease the property with it's existing zoning of RM-2. The size and shape of the parcel, combined with the location on Broadway makes it very difficult to sell and uneconomical to develop as multiple-family housing. At this time, no prospective tenant or buyer has shown any interest in the property due to the non-conforming status enforced by the City, nor has any willingness been shown to using the property for any residential use. The owner, Mr. Holland, was informed by the City of Salem that in order to use the property for any commercial use, a zone change would be necessary to deal with the problem; this application follows.

J. Scope of the Request:

The purpose of the application is to request the property be rezoned from Multi-Family residential (RM-2) to CR (Retail Commercial). This would require that the Comprehensive Plan be amended to change the Comprehensive Plan Map designation for the site from Multi-Family Residential to Commercial. This change would allow the applicant to utilize the property for uses listed as either permitted or conditional under the CR zoning, including auto repair (as a conditional use). The change would also provide future owners of the property with clear proof the property would no longer be a non-conforming use and subject to enforcement actions from Community Development.

K. Benefits of Rezoning:

The benefits of the proposed map and zone change are twofold; first, to resolve an issue of dealing with a long-standing pre-existing but nonconforming use; and secondly, acknowledging the fact that the property is generally unsuitable for the multiple family uses that apply via the existing zoning. It appears clear that the multiple and single family uses to the east need a minimal spatial buffer from the traffic impacts on Broadway, and the configuration and orientation of the tract is such that development in a multiple-family mode is limited, primarily due to access issues.

Further, rezoning the property for commercial uses will provide for commercially-oriented services or possibly even office space along the Broadway corridor, being conveniently located for adjacent neighborhoods which can help in reducing the vehicle miles traveled to reach services. The proposed land use designation is appropriate for a small property located adjacent to a major arterial street, and near a major parkway/arterial intersection.

II. Criteria for Comprehensive Plan Amendment:

The criteria for Comprehensive Plan Amendments is established by the Salem Revised Code (SRC), Section 64.090(b). SRC Section 64.040(g) defines a minor plan change as a single procedure for amendment to the Comprehensive Plan affecting less than five (5) privately and separately owned tax lots. Since this application affects only one tax lot and one ownership, it falls within this category (a minor plan change).

Before approving a minor Comprehensive Map amendment, the deciding body shall be satisfied that the applicable criteria are met. The criteria are shown below in bold print; following each is a response showing how the criteria are satisfied:

SRC Section 64.090(b)(1). A lack of appropriately designated suitable alternative sites within the vicinity of the 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***

SRC Section 65.090(b)(2) *A major change in circumstances affecting a significant number of properties within the vicinity. Such a 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., a parkway, an arterial, 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;*
- 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.*

Response:

This application can be found to be consistent with Sections 1(A) and (B) as well as Section 2(A) for the following reasons: (1) A review of the aerial photograph indicates there are few, if any, properties in the vicinity that would be suitable for the change to commercial, or have been amended to a commercial use. (2) Land use in the vicinity is affected by development of the Salem Parkway and the development of the Fred Meyer complex to the northwest of the subject site.

To the east of the subject tract properties have been developed in both a multiple-family and single-family mode and would not be considered available for any commercial orientation. South of the tract (across Tryon Ave NE) development is still consistent with the residential orientation, and again, not generally convertible for commercial uses.

West of the property, across Broadway, is a church, and to the northwest, the Salem Parkway/Broadway Intersection. North of that intersection is the Broadway Fred Meyer outlet, a large commercial development; but to the immediate north of the subject property is a cul-de-sac (Bliler Avenue) and single family homes that, due to access issues, would not be reasonably available for commercial uses.

All of the major infrastructure (the Salem Parkway and Broadway intersection) and newer commercial uses on Broadway are developments which have occurred since the subject property was originally built as a 'service station', and which predates the Salem Comprehensive Plan. The subject property has not been utilized as a residential tract since at least 1954, and historically has been developed for commercial uses, with or without review by the City of Salem. This application, then, is consistent with Sections 1(A) and (B) and 2(A).

SRC Section 64.090(B)(3): *The proposed plan change considers and accommodates as much as possible all applicable statewide planning goals.*

Response:

The Statewide Planning Goals are the basis for all of the Comprehensive Plans for Cities, Counties and Special Districts in the State of Oregon. The following Statewide Goals apply to this proposed Plan Map Amendment and Zone Change:

Goal 1: CITIZEN INVOLVEMENT:

The application will be reviewed consistent with the public review process established by the City of Salem, consistent with Goal 1. Notice of the application will be provided to property owners within the notice area, public agencies, published in the newspaper and posted on the property. The notice will describe the nature of the request and the applicable criteria. A public hearing to consider the request will be held by the Planning Commission. The notice and public hearing process allows all interested parties the opportunity to review and comment on the proposal, attend the public hearing(s), and participate in the process. These procedures provide *prima facie* evidence that the scope and intent of Goal 1 is met.

Goal 2: LAND USE PLANNING:

The purpose of Goal 2 is to establish a land use planning process and policy framework as a basis for decisions involving land use, and to assure a factual basis exists for those decisions. The implementation strategies of this goal require cities and counties to develop, at a minimum, a Comprehensive Plan, a Zoning Ordinance and a Subdivision Ordinance. The City of Salem has adopted, and has had acknowledged by LCDC (Land Conservation and Development Commission), the Salem Area Comprehensive Plan (SACP) and a zoning ordinance. These documents provide the controlling criteria for reviewing amendments; thus compliance with the criteria established by the Plan and Zoning documents, supported by fact, indicates that the proposal is consistent with the appropriate Goal.

Goal 6: AIR, WATER AND LAND USE RESOURCES QUALITY:

The subject property has been developed in its current configuration for over 50 years, and the use is consistent with urban densities and uses. Public facilities are in place to serve the site with water, sewer, storm drainage and streets. Since the property is within the City Limits, the public facilities noted above are provided by the City of Salem, including water (which precludes withdrawal from subsurface groundwater resources), sewer (sewage collection and treatment exists to the property), and storm drainage (collection and distribution), all of which insures that there will be no discharge of waste water or storm water directly to a body of water of the state or into the ground, complying with the provisions of Goal 6, which is to maintain and improve the quality of air, water and land resources of the state.

Goal 7: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS:

The purpose of Goal 7 is to protect people and property from natural hazards such as earthquake, flood, tsunamis and wildfire. A review of the data surrounding this property indicates that no natural hazards have been identified that are specific to the property, based upon the landslide hazard maps, existing topography and urban location except for the fact the property does lie within a floodplain. However, based upon existing levels of development both on site and in the area, and the scope of the storm drain system constructed for the area, flood hazard appears to be at a minimum. Keeping this in mind (and acknowledging flood insurance may be required), the proposal does not conflict with Goal 7.

Goal 10: HOUSING:

Goal 10 is to provide for the housing needs of the State. The City of Salem, in demonstrating compliance with this goal, designated the property, for whatever reason, as RM2, a multiple-family housing zone, back in 1968, despite the fact the property was developed as a service station. However, the shape, size, existing level of development and location of the property (abutting Broadway and a scant ½ block from the Salem Parkway, and limited access only to Tryon Avenue) has precluded sale of the property for any residential use for years.

A review of the zoning as provided by SRC Section 148.370 indicates that the 'gross' level of development to an RM2 standard would allow up to 13 multiple-family dwelling units on the tract. However, applying setbacks, parking and access criteria, and given the shape of the parcel, that gross level of development would be lowered to approximately 9 'net' dwelling units. While this proposal will remove this small parcel from the existing inventory of land designated for multi-family housing, it is very unlikely this parcel would ever be utilized for that use as it is not economically viable to make that change; the cost of removing an existing commercially-oriented structure and then building on site with limited access is currently prohibitive.

Goal 11: PUBLIC FACILITIES AND SERVICES:

Goal 11 provides that cities and counties are to plan and develop a '...timely, orderly and efficient' arrangement of public facilities and services to serve as the framework for development. The City of Salem currently operates and maintains such an infrastructure including water, sewer, storm drainage and streets that provide the basic framework for urban levels of development. These facilities currently serve the subject property, and the current proposal, a simple zone change with no proposed change to the physical orientation of the property, will not require additional services or levels of service. The proposal is consistent with the provisions of Goal 11.

Goal 12: TRANSPORTATION:

Goal 12 is the transportation goal, which simply states, it is a goal of the statewide plan to provide and encourage a safe, convenient and economic transportation plan. The City of Salem has adopted a TSP, or Transportation Systems Plan, that addresses the various policies and strategies contained in the Goal, including suggestions that population densities and peak hour travel patterns of existing and planned developments should be considered in the land use process. To demonstrate compliance with the goals and policies of the TSP, a Trip Generation Study has been prepared by a licensed traffic engineer (Access Engineering, LLC) to demonstrate the impacts of the proposed plan and zone change.

The trip generation comparison indicates that there would be no increase in peak hour trips resulting from the proposal before the City of Salem if the property were built to a Specialty Retail use; additionally, the proposed re-establishment of the car repair business would result in a reduction of peak hour trips.

Based upon the information in the Trip Generation Study, this proposal is consistent with the provisions of the TSP, and Goal 12.

Goal 13: ENERGY CONSERVATION:

The subject parcel is located in a developed part of the urban area, abutting a major arterial (Broadway) and a half-block from the Salem Parkway/Broadway intersection. This proximity to major transportation corridors makes access to the property generally direct, efficient and convenient. Maintaining the business orientation of the property can be found to be more energy efficient, given the relative locations of related businesses. The continued use of this site for commercial purposes can be found to be supportive of a compact urban form, and to provide for a limited amount vacant land for commercial purposes to serve the nearby residential areas. The proposal is in general compliance with the purposes of Goal 13, to maximize conservation of energy, based upon sound economic principles.

Goal 14: URBANIZATION

Goal 14 provides for an orderly and efficient transition from rural to urban land uses, to accommodate urban population and employment levels, to ensure efficient use of land, and provide for livable communities.

This application does not affect urban growth areas, as the property has been within the City of Salem for years. The change in land use designation from Residential to Commercial is consistent with the historical use of the property, consistent with the orientation of commercial enterprise along the major arterials, and eliminates a non-conforming status that has been the source of code enforcement.

The application is consistent with the applicable Statewide Planning Goals, and as such is consistent with Section 64.090(b)(3) of the Salem Revised Code.

SRC Section 64.090(b)(4): The proposed change is logical and harmonious with the land use pattern for the greater area as shown on the detailed and general plan maps.

Response:

Again, the property subject to the proposed change in land use and zoning has been utilized as a commercially-oriented auto repair shop and/or service station since the 1950's. The location is close to the Salem Parkway, fronts on a major arterial, and is not inconsistent with the development pattern in the general vicinity. The map amendment and zone change will eliminate a non-conforming situation, and allow the property owner to continue to operate a commercial business on the site, within the scope of the new zoning district.

The 'greater area' referred to in Section 64.090(b)(4) should include the area surrounding the Salem Parkway/Broadway intersection. While the subject property is on the southern fringe of that site, there are numerous commercial uses along both major transportation corridors providing goods and services to abutting neighborhoods.

The Fred Meyer center, which is northwest of the subject property, is a prime commercial center, and the general orientation of the subject property lends itself better to a commercial use than one of residential, again due to the frontage, access, and ability to buffer the residential uses to the east. The historical orientation of the property is not inconsistent with the development pattern in the greater area.

SRC Section 64.090(b)(5): The proposed change conforms to all criteria imposed by applicable goals and policies of the comprehensive plan in light of its intent statements.

Response:

Comprehensive Plans are essentially designed to promote the most desirable pattern of land use, taking into account the various factors that apply such as public facilities, transportation, and the needs of the citizens in terms of maintaining an efficient, safe and

healthful urban environment. The Intent Statement of the Salem Comprehensive Plan (Part II, Statement A) notes the intent of the Salem Comprehensive Plan is to recognize the need to remain responsive to the changing and evolutionary character of land use demands within the context of plan policies and the implementation strategies. The Salem Comprehensive Plan recognizes that land use and zoning are expected to change as conditions in the community change.

In the vicinity of the subject property, the City of Salem has seen significant alteration of the land form, particularly after the Parkway was completed. Planning and Zoning changes allowed the development of the Fred Meyer center and other related land uses in the area. In this case, however, the property has always had a commercial orientation, first as a service station, then an ODOT facility, and, since 1981, used by the owner as a vehicle repair center. The proposal to bring the zoning into conformance with the existing use eliminates a non-conforming situation, which is also consistent with the plan policies to eliminate nonconforming situations whenever possible. It is important to note this property has never been used for multi-family uses since it was first zoned that way in 1968.

The proposal is consistent with the intent of the Plan to retain flexibility, remain responsible for dealing with changing conditions, and to recognize the need for changing land uses as conditions change. For all of these reasons, the request for the map amendment and zone change is consistent with the expressed intent of the Comprehensive Plan.

Plan Map Designations:

Response:

The property in question is proposed to be designated as Commercial on the Comprehensive Plan Map. The intent of the 'Commercial' designation is described in Part II.3.c of the Comprehensive Plan. This designation describes commercial uses that exist throughout the Salem urban area, and provide for shopping and service opportunities, including both community uses (such as Fred Meyer) and local neighborhood facilities such as the subject property. These shopping and service facilities are implemented via the CR zone, thus this application is consistent with the definitions as contained in the Plan.

Part IV: Salem Urban Area Goals and Policies:

The application must address the applicable goals and policies from the Salem Area Comprehensive Plan, as noted below:

B. General Development: Goal: This goal is *"To insure that future decisions concerning the use of land within the Salem Urban Area are consistent with the Statewide Land use Goals."*

Response: As noted above, the application for a Map Amendment and Zone Change has been reviewed against the applicable State Land Use Goals. The application has been demonstrated to be consistent with the applicable Statewide Land Use goals, and thus is consistent with this Salem Plan Goal.

Policies:

Policy 4. Energy: *"The city and county shall consider and foster the efficient use of energy in land use and transportation planning."*

Response: A primary issue pertaining to efficient energy use is limiting the necessity for long distance or long duration vehicle trips. This particular request will contribute to the livability of the area by providing a service-oriented parcel conveniently located for neighborhood access, but also provides a convenient and efficient location for the past and future use (auto repair) that is dependent upon the existing transportation corridors for an efficient and effective location and access.

Policy 7: Optimal Use of the Land: *"Structures and their siting in all residential, commercial, and industrial developments shall optimize the use of land..."*

Response: As noted, this less than ½ acre of land is not adequately suited for the future development of multiple-family residential housing, due to size, shape of the parcel, and access issues. The optimal use of the land is the continued small-scale commercial orientation of the property. It is clear that such parcels have been reviewed in the past by the City of Salem, and generalized information from the real estate community supports the continued commercial-oriented use, and changing the zoning and plan designation to eliminate a non-conforming use situation.

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."*

Response: This application, if approved, will remove less than one-half acre (.44 acres) from the 'multiple-family' land use inventory. This level of change simply will not have a significant impact on the ability of the City to provide for an adequate supply of developable land for multiple-family projects. Given the location of the site (on Broadway, and just south of the Salem Parkway), any residential development would be subject to the impacts of the traffic on those two corridors, including traffic noise from both private autos and commercial trucks, exhaust fumes, and light pollution at night.

This property has no special features that would represent an advantage for multiple family developments, and the size, location and orientation of the property does represent a better location for commercial uses. The site is and would be difficult to develop for multiple family use due to it's size and limited access (off Tryon Avenue). For these reasons, maintaining the property in a residential configuration simply is not consistent with the residential development goal.

G. Commercial Development: Goal: *"To maintain and promote the Salem urban area as a commercial center for the Marion-Polk County metropolitan area."*

Policy 5: *"Neighborhood and Community Shopping and Service Facilities. '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 the neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods."*

Response: The subject property has been utilized as a commercial property since before the City of Salem zoned the land in 1968. However, it does not contribute to a 'strip development' concept since lands both north and south of the property are zoned for residential uses. The proximity of the property to the Parkway, and being located on Broadway, clearly shows that site has been beneficial to the owner in terms of location, and it has not been detrimental to the residential character of the properties in the immediate neighborhood. The location is in a convenient site next to a major arterial, and is consistent with this policy.

SRC Section 64.090(b)(6): *The proposed change benefits the public.*

Response:

The proposal before the City of Salem will place the property in a zoning district that is more reflective of it's past use, it's location, size, and the general land use pattern in the vicinity. The location, along a major arterial, and just south of the Parkway and a major intersection, reflects the commercial need for such properties in close proximity to these corridors, while not taking access or creating traffic problems on those corridors. The proposed land use is appropriate for the neighborhood, being neighborhood-oriented in scale (unlike a major use such as Fred Meyer, Target or Wal-Mart), and yet close enough to the transportation corridors as to provide visibility for prospective clients. The location is advantageous to the owner, the city, and the general public at large, a fact demonstrated by the over 30 years of use of the site as a commercial property. Thus, the site does benefit the public, and satisfies the criteria for a minor Comprehensive Plan change.

III. Criteria for Zoning Map Amendment:

In addition to the minor Comprehensive Plan Map Amendment, this application addresses the criteria for a change in zoning of the subject property from RM2 to CR.

Salem Revised Code Section 113.150 provides the criteria for Zoning Map amendments, considering the degree of impact of the proposed change and the greater the impact on the area, the greater is the burden of proof on the applicant that the zone change is appropriate. Further, SRC Section 113.150(b) provides the following factors (outlined in bold italic), shall be addressed in the decision

1) The existence of mistake in the compilation of any map, or in the application of a land use designation to the property;

Response:

The applicant believes that there was indeed a mistake in zoning of the property, and placing a 'multiple-family' land use designation on the site, given that the property has, since the early 1950's, been developed in a commercially-oriented use, first as a service station, then in the 1970's as an ODOT vehicle storage and repair location, and for the last 30 years or so, as a auto repair facility.

SRC Section 113.100(a) notes that "...because of normal and anticipated growth of the city, changing development patterns and concepts, governmental policy decisions affecting land use, community needs and other factors whose specific future application at any given time cannot be precisely anticipated and implemented legislatively, the zoning pattern on the official zoning map cannot remain static..."

The property was zoned RM2 by the City of Salem in 1968, in anticipation of a land use pattern developing in the vicinity for multiple family developments. However, this property has never been utilized for that purpose, so the anticipated use never materialized, in part since the property had been in a commercial use for years. Since all of the properties surrounding this site have been developed, it is no longer possible for the property to be developed in conjunction with larger adjacent parcels.

While the existing designation do not necessarily represent a mistake in terms of a residential housing policy *per se*, the residential land use designation is no longer consistent with the changes and developments in the area that have increased the commercial uses in this general vicinity. This property, it's historical orientation, location, and character of the area simply are not reflective of the RM2 zone.

Finally, the concept of 'mistake' is clearly exemplified by the fact the property has been subject to a 'non-conforming use' determination, and despite the character of the structures on the property and the 30-year history of commercial use, the Staff has determined the only solution for the owner is to apply for a plan map and zoning amendment to protect the investment he made over 30 years ago. This application, then, is the appropriate solution to a land use issue arising from the zoning of the property in 1968.

2) A change in the social, economic, or demographic patterns of the neighborhood or the community;

Response:

It appears obvious that there has been a change in the economic patterns of this area in the last 30 years, including significant changes in the infrastructure for transportation facilities in particular. The economic pattern of the area now is stable, and the use of the property for a commercial operation (auto repair) is part of that pattern, and has been for some years. The size, location and shape of the tract simply does not lend itself to development as it is currently zoned, and the non-conforming status of the property has become an issue for the City and the property owner, and is a reasonable factual basis for the proposed change in the land use designation and zoning.

3) A change of conditions in the neighborhood;

Response:

Like any vibrant city, this area has seen change over the past thirty years, although the use of the subject parcel has remained virtually the same. The growth in the vicinity has taken place north of this site (across the Parkway) but the impacts of the commercial growth in the area have spread, primarily due to the impacts of traffic on Broadway and the Parkway. Amending the land use designations on this site to clearly reflect the actual use that has occurred there over the last 30 years appears to be a reasonable and effective way to address and solve an issue of non-conformity that has been in place for years.

4) The effect of the proposal on the neighborhood;

Response:

The proposal before the City, to amend the Plan and Zoning on the property to a commercial designation that reflects the actual and historic use of the property, will have little or no effect on the neighborhood. The site has, for over fifty years, been utilized as a commercial property. Because of the size of the tract, any future development on the property will be limited to small-scale retail or service oriented businesses because of parking restraints and other

physical limitations, all of which conspire to minimize the risk of any potential significant impacts on the neighborhood. The proposed zone change will allow the subject property to continue to provide small scale services to benefit the local area.

5) The physical characteristics of the subject property, and public facilities and services;

Response:

As has been noted above, the subject property is less than ½ acre (.44 acre) and is a long, narrow parcel that grows even narrower at the north end due to the widening of Broadway as it approaches the Salem Parkway intersection. Although the property has frontage on Broadway, access is limited to a 60-foot wide driveway off Tryon Avenue NE. While the property has access to, and is served by, the City of Salem in terms of water, sewer and storm drainage, and those facilities are adequate to serve the commercial use on site, those facilities would by necessity need to be enlarged and/or expanded if any multiple-family development would be proposed. Again, given the size of the parcel, the probability of that occurring is limited to non-existent. In total, the commercial use of the site is the most reasonable and effective use of the property given size, shape, configuration and location.

6) Any other factor that relates to the public health, safety, and general welfare that the Review Authority identifies as relevant to the proposed change.

Response:

The most critical factor that has been delineated by the Staff is the fact that the property has been in commercial use for over 30 years, but, due to a determination arising from the Code Enforcement actions, the 'legal' non-conforming status was not sustained. There are two solutions to the dilemma: (1) develop the property in a use consistent with the RM2 zone, or (2) change the zoning to reflect the historical, current and anticipated use of the property.

Under the current zoning, the property is essentially unusable, and development to an RM2 standard simply is not economically nor reasonably feasible due to the size, shape and configuration of the tract. Improvements to the property to accommodate the RM2 uses, including systems development charges, simply would be too expensive given the limited number of units that realistically could be accommodated. Access for over 9 units would be problematic as well. The zone change is the most reasonable solution to the issues facing this tract.

IV. Applicant's Conclusion:

In conclusion, the proposed plan map amendment and zone change from multiple-family residential to commercial is appropriate, for the following reasons:

1. The application has demonstrated that the proposal is consistent with all of the requirements of the Salem Revised Code for a minor Plan Map Amendment and a Zone Change.
2. The subject site has historically been used for commercial purposes since at least 1954. The application of RM2 zoning to the property in 1968 was done in anticipation of a growth in that land use designation that has not developed. Thus, the zoning on site is currently inappropriate. This is further demonstrated by the Code Enforcement issues arising from the use of the property, and the fact the plan and zoning change was suggested by Staff as the most reasonable solution to the dilemma.
3. The site is very unlikely to develop in a multiple-family mode due to size, shape, configuration, minimal access, and the need to expand public facilities such as water, sewer and storm drainage connections.
4. Finally, the proposal is consistent with, and is in compliance with the applicable Goals and Policies of the Salem Area Comprehensive Plan and the Statewide Planning Goals, and satisfies all applicable criteria.

Based upon the application and the information and facts contained in this presentation, the proposed Minor Comprehensive Plan Amendment and Zone Change should be approved.

RESPECTFULLY SUBMITTED THIS 15th DAY OF October, 2012:


(Signature of Property Owner)



Access Engineering LLC

134 E. 13th Ave, Suite 2

Eugene, Oregon 97401

Phone & Fax:

541-485-3215

info@accesseng.com

Transportation Engineering

Traffic Design

Trip Generation

Access Management

Traffic Counts

Street Lighting

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COMMUNITY DEVELOPMENT

Espresso Repair & Maintenance LLC Zone Change Trip Generation Study

Salem, Oregon

September 14, 2012

ATTACHMENT 3

**Espresso Repair & Maintenance LLC Zone Change
Trip Generation Study**

Salem, Oregon



RENEWS 8/30/14

September 14, 2012

Espresso Repair & Maintenance LLC

Trip Generation Study

1. Introduction

The Espresso Repair & Maintenance property is located at 2710 Broadway in Salem, Oregon. The property is located on the northeast corner of Broadway and Tryon Avenue just south of Salem Parkway. Figure 1, attached, shows the location of the site north of Downtown Salem. The existing car repair shop is a non-conforming use in the existing RM2 (Multi-family Residential) zone. The property owner is proposing to change the zoning to CR (Retail Commercial). This Trip Generation Study will address the potential traffic impacts of a zone change from RM2 to CR for the property.

2. Property Description

The Espresso Repair and Maintenance property is tax lot 4901 on Map 7S 03W 14BB and contains 19,166 square feet or 0.44 acres. The property lies between Tryon Avenue on the South and Bliler Avenue on the North. The southern half of the site is developed as a car repair shop and parking area with a single 20-foot access driveway on Tryon Avenue 30 feet East of the Stop line at Broadway. The proximity of Salem Parkway prohibits access on Broadway. Except for a small fenced storage area, the north half of the site is vacant and there is no access onto Bliler Avenue. The shop building is 1,344 square feet. Figure 2, attached, shows the existing development on the site. It is the owner's intention to re-open the car repair shop if the zone change is approved.

3. Surrounding Land Uses

Along both sides of Broadway, South of Salem Parkway for several blocks, are developed Multi-family Residential zoned properties. On the West side of Broadway across from the site, the RM2 zoned property is developed as a church. The two properties immediately to the East of the site are developed as apartments on RM2 zoned land. East of the RM2 zoning is a large area of developed Single-family Residential homes.

North of the Salem Parkway on both sides of Broadway are fully developed retail commercial properties. Northeast of Broadway on the East side of Salem Parkway are fully developed new car sales lots on industrially zoned properties. All properties in the immediate area of the site are designated within the flood plain.

4. Surrounding Street System

Table 1 above describes the street conditions for the surrounding streets in the immediate area.

Table 1: Existing Street Conditions

Street	Functional Classification	Roadway Width (ft)	Posted Speed	Travel Lanes	Bike Lanes	On-Street Parking	Sidewalks
Broadway NE N/o Salem Pkwy S/o Salem Pkwy	Major Arterial Minor Arterial	72-76 44-76	35	4	None	None	Both Sides
Salem Parkway NE	Parkway	72	45	4	Both Sides	None	Both Sides
Tryon Avenue NE	Local	34	25*	2	None	Both Sides	Both Sides
Bliler Avenue NE	Local	34	25*	2	None	Both Sides	Both Sides

* - Through travel lanes. ** - Basic Rule

- ♦ The intersection of Salem Parkway at Broadway is signalized.
- ♦ The intersection of Broadway at Tryon Avenue is controlled by a STOP sign from Tryon.

5. Transit

Cherriots provides transit service in the Salem metro area. Two routes provide service along Broadway in the study area. Both Routes #9 and #19 connect the area with Downtown Salem and Keiser with 30 minute headways from 6:00 AM to 9 PM. Both routes have stops on Broadway at Tryon in both directions.

6. Pedestrian and Bicycle Facilities

Broadway, Salem Parkway, Tryon, and Bliler Avenues all have existing sidewalks. There are signal controlled pedestrian crossings on all legs of the Salem Parkway @ Broadway intersection. The nearest marked crosswalk to the South on Broadway is at the Broadway @ Pine Street signalized intersection four blocks distant.

Bicycle lanes exist on Salem Parkway. Broadway does not have bike lanes but is listed as a high priority for future bicycle facilities between Salem Parkway and Liberty Street in the Salem Transportation System Plan.

7. Site Trip Generation

Even though the property owner only desires to re-open the existing car repair shop, the change in zoning from multi-family residential to retail commercial triggers the Statewide Transportation Planning Rule (TPR). For zone changes that require a Comprehensive Plan Amendment, the TPR requires that a Traffic Impact Analysis that compares the impact of the highest reasonable land use under the proposed zoning to the impact of the highest reasonable land use under the existing zoning.

Existing Zoning Development. The most common permitted use in the existing RM2 zoning district is a multi-family residential development. The Salem Revised Code 148.370 provides the range of dwelling unit densities from a minimum of 12 units per gross acre to a maximum of 28 units per gross acre. The highest reasonable multi-family residential development for the 0.44 acre site would contain 12.32 dwelling units rounded to 13 units per code. Therefore a 13-unit apartment building is selected for the impact analysis of the existing zoning.

Proposed Zoning Development. The relatively small lot size precludes many potential retail commercial developments. In addition, the property is a narrow, 60 foot wide strip along Broadway with access available on Tryon Avenue only. The site configuration and access would not be favorable for any high traffic generating retail uses. The highest reasonable retail use under these conditions would be a specialty retail building. Code requirements for setbacks, loading areas, and landscaping reduce the available lot coverage for the building and parking to an estimated 50%. Based on those constraints the largest specialty retail building would be 3,000 square feet.

Table 2 below compares the trip generation of the highest reasonable developments for the existing and proposed zoning along with that of the existing car repair shop that the owner desires to re-open. The trip rates for these uses is obtained from the Eighth Edition of the ITE Trip Generation manual using the ITE Code 220 - Apartments; ITE Code 814 - Specialty Retail; and ITE Code 942 - Automobile Care Center.

Table 2: Trip Generation Comparison

Facility	Size	Units	Weekday		PM Peak Hour	
			Rate	Trips	Rate	Trips
Ex. Zoning - Apartments (220)	13	Dwelling Units	6.65	86	0.62	8
Prop. Zoning - Specialty Retail (814)	3.00	1000 SF GFA	44.32	133	2.71	8
Prop. Use - Auto. Care Center (942)	1.34	1000 SF GFA	N/A	N/A	3.38	5

SF GFA = square feet gross floor area.

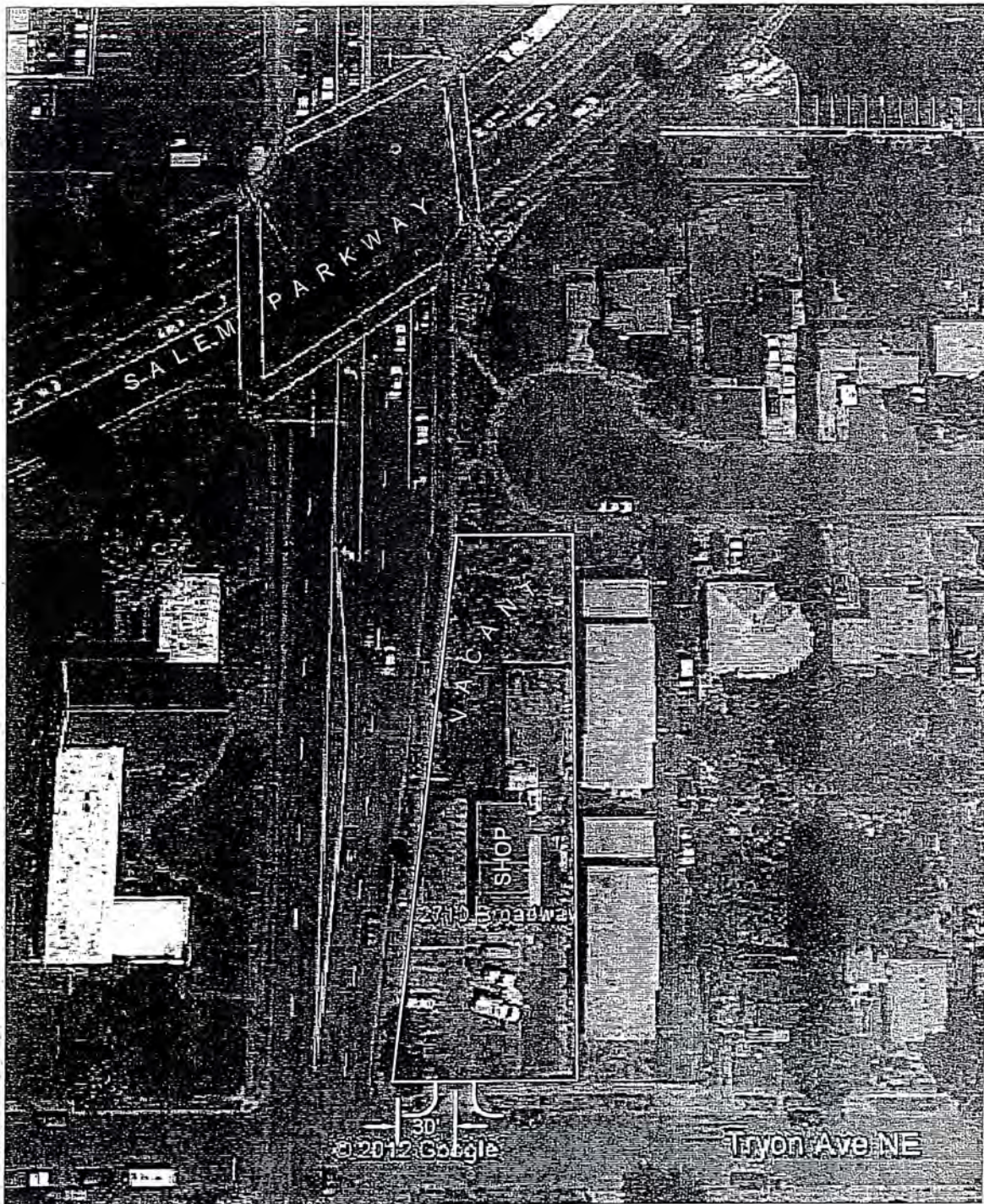
10. Conclusions and Recommendations

Based on the trip generation analysis above in Table 2, the change in zoning from RM2 to CR would result in no increase in peak hour trips on this site. In fact, the owner's desire to re-open the car care center would generate even fewer peak hour trips. Since the highest reasonable development for the proposed zoning change would result in no additional peak hour trips, it can be concluded that there would be no significant traffic impact in the area and the Transportation Planning Rule is satisfied. We recommend approval of the zone change from RM2 to CR with no mitigation required.

Figure 1
Espresso Repair & Maintenance Trip Generation Study
Vicinity Map



Figure 2
Espresso Repair & Maintenance Trip Generation Study
Site Plan





TO: Bryan Colbourne, Planner III
Community Development Department

FROM: *For* Glenn J. Davis, P.E., C.F.M., Chief Development Engineer
Public Works Department *[Signature]*

DATE: December 10, 2012

SUBJECT: PUBLIC WORKS RECOMMENDATIONS
CPC-NPC-ZC 12-09 (12-116239)
2710 BROADWAY STREET NE

PROPOSAL

To change the Salem Area Comprehensive Plan (SACP) Map designation from Multi-Family Residential to Commercial, and change the zone district from RM2 (Multiple Family Residential) to CR (Retail Commercial), and change the neighborhood plan map designation accordingly on property 0.43 acres in size, and located at 2710 Broadway Street NE.

FACTS

Public Infrastructure Plan—The *Water System Master Plan*, *Wastewater Management Master Plan*, and *Stormwater Master Plan* provide the outline for facilities adequate to serve the proposed zone.

Transportation Planning Rule—The applicant submitted a Transportation Planning Rule (TPR) analysis to comply of the requirements of the TPR (OAR 660-012-0060). The TPR analysis is required to demonstrate that the proposed zone change will not have a significant effect on the transportation system as defined by OAR 660-012-0060.

CRITERIA AND FINDINGS

SRC 113.205(b)(5) Size, location, screening, drainage, and surfacing of driveways, parking and loading areas, and street access

Finding—The existing driveway approach to Tryon Street NE is too close to the intersection in accordance with SRC Chapter 80 requirements. At the time of site redevelopment, the existing driveway to Tryon Street NE shall be closed and relocated

as far from Broadway Street NE as practical. The proposed zone change does not trigger this modification.

SRC 113.205(b)(11) Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water, and mass transportation

Finding—The applicant has submitted a TPR analysis that is required to address the TPR. The analysis demonstrates that the proposed zone change will not have a significant affect on the transportation system as defined by OAR 660-012-0060. The Assistant City Traffic Engineer concurs with these findings.

Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 163.

Prepared by: Robin Bunse, Administrative Analyst II
cc: File