



MARION COUNTY BOARD OF COMMISSIONERS

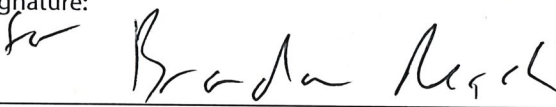
Board Session Agenda Review Form

Meeting date: December 1, 2021

Department: Public Works Agenda Planning Date: November 22, 2021 Time required: 30 min.

☐ Audio/Visual aids

Contact: Lindsey King Phone: 503-566-4162

Department Head Signature: 

TITLE

Public Hearing for Zone Change/Comprehensive Plan Amendment (ZC/CP) Case 21-008/Snow and Kerley Properties, LLC.

Issue, Description & Background

Snow and Kerley Properties, LLC, submitted an application to change the Comprehensive Plan designation from Developing Residential to Multi-Family Residential and change the zone from Urban Development (UD) to Limited Multi-Family Residential (LM) on a parcel of .18-acres located at the 300 Block of Gwendolyn Loop NE, Salem. (T7S, R2W, Section 30DB, Tax Lot 2304).

The hearings officer conducted a public hearing on the application on October 7, 2021, and on October 25, 2021, issued a recommendation that the board approve the request. The hearings officer found that the applicant satisfied all the relevant approval criteria for a comprehensive plan and a zone change.

Financial Impacts:

None

Impacts to Department & External Agencies

None

Options for Consideration:

1. Continue the public hearing.
2. Close the public hearing and leave the record open.
3. Close the public hearing and approve, modify, or deny the request.
4. Remand the matter back to the hearings officer.

Recommendation:

Hearings officer recommends the request be approved.

List of attachments:

Hearings officer's recommendation.

Presenter:

Brandon Reich

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Lindsey King - Lking@co.marion.or.us
Brandon Reich - Breich@co.marion.or.us

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the)	Case No. ZC/CP 21-008
)	
Application of)	COMPREHENSIVE PLAN
Snow and Kerley Properties, LLC.)	AMENDMENT / ZONE CHANGE

RECOMMENDATION

I. Nature of the Application

This matter came before the Marion County Hearings Officer on the Application of Snow and Kerley Properties, LLC, to change the comprehensive plan designation from Developing Residential to Multi-Family Residential and to change the zone from UD (Urban development) to RL (Limited Multiple-Family Residential) on 0.18 acres located at the 300 block of Gwendolyn Loop NE, Salem (T7S; R2W; Section 30DB; tax lot 2300). The subject property is within the Salem Urban Growth Boundary (UGB) and designated Developing Residential in the Salem Area Comprehensive Plan (SACP). The property's current UD zoning is under the jurisdiction of Marion County. The applicant proposes to place a duplex on the vacant lot, similar to the existing duplexes on Gwendolyn Loop.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code (MCC) Chapter 16, the Marion County Comprehensive Plan (MCCP), the Salem Area Comprehensive Plan (SACP), Oregon Administrative Rule (OAR) Division 4, and Oregon Revised Statute (ORS) Chapter 197.

III. Public Hearing

A public hearing was held on this matter on October 7, 2021. The planning division file was made a part of the record. The following persons appeared and provided testimony on the application:

- | | |
|---------------------|---------------------------------|
| 1. Lindsey King | Marion County Planning Division |
| 2. Britany Randall | Representative for Applicant |
| 3. Lorinda Peterson | Representative for Applicant |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or two evidence or testimony presented at the hearing.

IV. Executive Summary

The Applicant requests a comprehensive plan designation change from Developing Residential to Multi-Family Residential and to change the zone from UD (Urban Development) to RL (Limited Multiple-Family Residential) on 0.18 acres located at the 300 block of Gwendolyn Loop NE, Salem, Oregon. The Applicant has satisfied the relevant approval criteria for a comprehensive plan amendment and a zone change, and the hearings officer recommends **APPROVAL** of the proposal.

V. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The property is located on the north side of Gwendolyn LP NE, 195 feet from its intersection with Elma Ct NE; roughly 1,000 feet north of Hudson Ave NE. The parcel is generally flat and undeveloped. The parcel has access from Elma Ct. through Gwendolyn Loop via a private right of way. The parcel was created in 2006 by a partition case; P06-12, creating two separate legal lots. The parcel is considered legal for land use purposes.
2. Abutting properties to the east are zoned RS (Single Family Residential). Properties to the west, north, and south are zoned RL (Limited Multi-Family Residential), with a pocket of UD (Urban Development) to the north.
3. The Planning Division requested comments from various governmental agencies.

Marion County Public Works - Septic commented:

If sanitary sewer is available in accordance with OAR 340-071-0160(4)(f), Marion County Septic will not be able to issue any septic approvals or permits for this property. If the City of Salem determines it is not available, a site evaluation, followed by a construction/installation permit will be required for development."

Marion County Fire District No. 1 provided comments regarding fire code requirements that will be imposed at the time of development.

City of Salem, Planning Division commented that the division would be supportive of the proposal making notes about future divisions of land and access. See full comments in file.

City of Salem, Public Works commented:

Applicant will need permits from the City of Salem to connect to sewer. Common line sewer connections are not allowed.

Marion County Building Division commented:

No Building Inspection issues. Permits are required for any future development on private property, contact local fire department regarding apparatus access and water supply.

Marion County Land Development and Engineering Permits (LDEP) provided the following comments:

ENGINEERING ADVISORIES

- A. PW Engineering has no action items for the proposed Zone Change itself.
- B. The following will be requirements for future site development:
 - Manifold roof downspouts, single connection to closed stormwater system at storm drain catch basin situated at southeast quadrant of property within storm drain easement flanking west property line as depicted on PP2005-123;
 - Access Permit with building permits;
 - PW Engineering Utility Permits for service extensions within public R/W; and
 - Transportation System Development & Parks Charges with building permits

All other contacted agencies either had no comment or stated no objection to the proposal.

VI. Additional Findings of Fact and Conclusions of Law

1. This is a recommendation to the Marion County Board of Commissioners. The Board of Commissioners has the final decision-making authority.
2. Applicant has the burden of proving all applicable standards are met. As explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390 at 394-95 (1987):

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that, when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted.)

Applicant must prove, by substantial evidence in the whole record, that it is more likely than not that each criterion is met. If the evidence for any criterion is equally likely or less likely, Applicant has not met its burden and the application must be denied. If the evidence for every criterion is in Applicant’s favor, then the burden of proof is met and the application must be approved.

3. According to the Salem-Keizer Urban Area (Regional) Procedures and Policies of the Salem Area Comprehensive Plan, the following applies to the question of jurisdiction: Marion County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area and Keizer Urban Area that are outside the Salem city limits and outside the Keizer city limits other than regional planning actions and amendments to the urban area policies.
4. Under Marion County Code (MCC) 16.43.020, approval of a non-legislative plan amendment shall include findings that the change meets the following criteria:

- A. *Conformance with the Comprehensive Plan goals, policies and intent, and any plan map amendment criteria in the plan, or intergovernmental planning coordination agreement, pertaining to unincorporated lands.*

The applicant has addressed each of the Salem Urban Area Goals and Policies within the Residential Development Goal section of Salem's Comprehensive Plan. Additionally, the applicant has requested a consolidated Comprehensive Plan amendment and zone change. If approved, the Comprehensive Plan designation and zoning classification of the subject property will both be Limited Multiple-Family Residential and therefore meet the requirements of this section. The criterion in MCC 16.43.020 (A) has been met.

- B. *The addition of the subject property to the inventory of lands in the proposed map designation and the corresponding inventory reduction in the current designation are consistent with projected needs for such lands in the Comprehensive Plan.*

The applicant states that according to the Salem 2015 Housing Needs Analysis (HNA), the City has a surplus of 1,975 acres for Single Family residential development and a deficit for multifamily residential development. The proposal would take approximately .18 acres of land away from single-family residential and designate it to limited multi-family zoning with one duplex. The criterion in MCC 16.43.020 (B) has been met.

- C. *Uses allowed in the proposed designation will not significantly adversely affect planned uses on adjacent lands.*

The applicant establishes that the proposed zone change would add one multi family unit to a Multi-Family housing deficit and be in harmony with the surrounding neighborhoods and development. Multi-Family developments (duplexes and higher density housing units) are often used to buffer Single-Family development from roads and more intense uses such as commercial. Applicant describes will continue this land use pattern which is present in the area and provide a diverse mix of housing types. The criterion in MCC 16.43.020 (C) has been met.

- D. *Public facilities and services necessary to support uses allowed in the proposed designation are available or are likely to be available in the near future.*

The applicant establishes that the subject property is within the Suburban East Salem Water District and has access to City of Salem infrastructure. The water, sewer and storm facilities in the area appear to be adequate to support future development of the site with a duplex. Applicant states that they will address all site-specific infrastructure requirements at time of development. The criterion in MCC 16.43.020 (D) is met.

5. A Comprehensive plan amendment approval is recommended.
6. Under Marion County Code (MCC) 16.39.050, approval of a zone change shall include findings that the change meets the following criteria:
- A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.*

7. The existing Plan designation in the Salem Area Comprehensive Plan (SACP) is Developing Residential, and the proposed designation is Limited Multi-Family Residential. Policies applicable to the proposal are:

Residential Development Policy 3 City codes and ordinances shall encourage the development of passed over lands or underutilized land to promote the efficient use of residential land and encourage the stability of neighborhood.

The land is currently underutilized as there is nothing developed on the property. The applicant states that if the comprehensive plan and zone change are approved then the property owner intends to redevelop the property with one duplex to mirror existing development. Residential Development policy 3 can be met with approval of the application.

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

- a. To encourage efficient use of residential land and public facilities, development regulations shall require minimum densities for multiple family development zones.
- b. Development regulations shall promote a range of densities that encourage a variety of housing types;
- c. Multiple family developments shall be located in areas that provide walking, auto, or transit connections to:
 - (1) Employment centers;
 - (2) Shopping areas;
 - (3) Transit services;
 - (4) Parks;
 - (5) Public Buildings

The applicant establishes that the increased density will allow development of one duplex; size not specified and will meet all minimum lot size requirements. The applicant provides evidence in applications stating that public facilities and services, as well as transportation corridors to support that the development will be located in compliance with this policy. Transit connections are provided to Lancaster Drive, which provides employment centers, shopping areas, transit services, parks, and public buildings. Residential Development Policy 6 can be met.

Residential Development Policy 7 Residential neighborhoods shall be served by transportation systems that provide access for pedestrian, bicycles, and vehicles while recognizing the neighborhoods physical constraints and transportation service needs:

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

The applicant states that the existing street transportation system in the vicinity of the subject parcel establishes a framework of arterials that provide both east/west and north/south access across the area, allowing for a variety of routes to be used by car, bike or on foot. Regarding the topography of the area, it is relatively flat and well drained. Most intersections are broad with good site distance due to a lack of significant vegetation such as trees and shrubs. Residential Development Policy 7 can be met.

Residential development policy 9 Alternative residential development patterns, subdivision and zoning regulations shall provide opportunities for increased housing densities, alternative housing patterns and reduced development costs. Development regulations shall promote residential development patterns that encourage:

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

Applicant provides findings that the existing street network promotes the use of all modes of transportation and being located next to major arterials and business centers will encourage trips to be taken by modes other than a car. Notwithstanding the multi-modal nature of the surrounding area, trips taken by automobile will still be adequately served by the existing infrastructure. Residential Development Policy 9 can be met.

Residential development policy 10 Requests for rezoning to higher density residential uses to meeting identified housing needs will be deemed appropriate provided:

- a. The site is so designated on the comprehensive plan*
- b. Adequate public services are planned to serve the site;*
- c. The site's physical characteristics support higher density development; and*
- d. Residential Development Policy 7 is met.*

The subject parcel is designated as Developing Residential in the SACP. All public services exist in the surrounding area and connectivity of streets is already adequate. The property is 0.25 miles from Lancaster Drive, which is a major regional arterial. The site is relatively flat and has no identified geologic hazard areas mapped in the vicinity. Portions of the property appear to have hydric soils present on it, all located in relation to the West Fork of the Little Pudding River. The applicant is advised that they should contact the Oregon Department of State Lands to discuss the presence of hydric soils on the property. The site is also located in the Secondary Overlay for the Salem Municipal Airport. As the site is approximately 2.0 miles from the airport, any height restrictions required by the overlay can be assured by requiring that the max height of 35 feet allowed in the RM zone is not exceeded by the proposed development. Residential development Policy 10 can be met.

- B. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.*

The subject property is in an area with existing infrastructure, including water, sewer, electric, and telecommunication services. As previously mentioned, the property is served by Cherriots transit service. MCC 16.39.050(B) is met.

C. *The request shall be consistent with the purpose statement for the proposed zone.*

The RL (Limited Multiple-Family Residential) zone purpose statement listed under MCC 16.03.000 states:

The RL (limited multiple-family residential) zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. Other uses compatible with residential development are also appropriate. RL zones are located in areas designated multiple-family residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with urban services. They should be located near the perimeter of lower density residential areas.

The proposed RL zone is appropriate for the SACP Developing Residential designation. The subject property is located approximately 0.25 miles east of Lancaster Drive, a major arterial street and site-generated traffic can be easily accommodated. Moreover, the parcel is located adjacent to Multi-Family zoning on the west and south, and surrounded by Single Family zones to the north and east. According to the applicant statement the applicant intends to mirror the existing contiguous development of duplexes along Gwendolyn Loop. The density allowed in the RL zone is compatible with the level of available services, including transportation. Therefore, MCC 16.39.050(C) is met.

D. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The RL zone is intended to provide areas in the community for higher density residential use. The zone allows many of the same uses as the UD zone as well as higher density residential development. Since the surrounding properties on the south and west of Monroe Ave are zoned for Multi-Family residential use, it is unlikely that the additional uses permitted in the RL zone would have an adverse effect on adjacent properties. Additionally, the surrounding properties to the north and east are zoned Single Family residential use; the uses permitted in the RL zone would not likely have any adverse effects on the adjacent properties. MCC 16.39.050(D) is met.

8. The proposed zone change is recommended.

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a comprehensive plan amendment from Developing Residential to Multi-Family Residential and to change the zone from UD (Urban development) to RL (Limited Multiple-Family Residential) on 0.18 acres located at the 300 block of Gwendolyn Loop NE, Salem (T7S; R2W; Section 30DB; tax lot 2300). Therefore, the hearings officer recommends that the Marion County Board of Commissioners GRANT the comprehensive plan amendment and the zone change application, subject to the conditions set forth below, which are necessary for the public health, safety and welfare.

- A. The Applicant shall obtain all permits required by the Marion County Building Inspection Division.
- B. The Applicant shall meet the development requirements of the RL zone, see 16.03.100 through 16.03.250.
- C. If annexation occurs before the property is developed, the development shall comply with SRC 702-Multiple Family Design Review Standards as requested by the City of Salem.

VIII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED this 29th day of October, 2021.



Jill F. Foster

Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing recommendation on the following persons:

Snow and Kerley Properties LLC
P.O. Box 5517
Salem, OR 97304

Britany Randall
Brand Land Use LLC
121 Jefferson Hwy 99E SE
Jefferson, OR 97352

Agencies Notified:

Planning Division

(via email: Planning@co.marion.or.us)

(via email: BReich@co.marion.or.us)

(via email: Lking@co.marion.or.us)

(via email: abarnes@co.marion.or.us)

Code Enforcement

(via email: lrobinson@co.marion.or.us)

Building Inspection

(via email: deubanks@co.marion.or.us)

(via email: kaldrich@co.marion.or.us)

PW Engineering

(via email: jrasmussen@co.marion.or.us)

PW

(via email: RGoodwin@co.marion.or.us)

(via email: PWolterman@co.marion.or.us)

(via email: Zdiehl@cityofsalem.net)

(via email: bpik@cityofsalem.net)

Marion County Fire District No. 1


(via email: paulas@mcfdl.com)

Planning@cityofsalem.net

Hornerd@keizer.org

Andrew@Friends.or

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 26th day of October, 2021 and that the postage thereon was prepaid.


Sandy Benninger
Administrative Assistant to the
Hearings Officer