



**Marion County**  
OREGON

# ZONE CHANGE/COMPREHENSIVE PLAN CHANGE APPLICATION

## RECEIVED

**Do not double-side or spiral bind any documents being submitted**

**AUG 11 2021**

**Fee: Please check the appropriate box:**

☐ Zone Change - \$1880+\$30/acre

☐ Comprehensive Plan Change - \$3755+\$60/acre

☒ Zone Change/Comprehensive Plan Change - \$3755+\$60/acre

☐ Mineral Aggregate Site - \$5300 base fee +

\$25/acre - 0-100 acres

\$75/acre - 101-200 acres

\$100/acre - 201-399 acres

\$150/acre - 400+ acres

**Marion County  
Planning**

PROPERTY OWNER(S): Snow & Kerley Properties, LLC Paul A. Kerley	ADDRESS, CITY, STATE, AND ZIP: 131 Pine Street NE, Salem, OR 97301
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Britany Randall of BRAND Land Use, LLC	ADDRESS, CITY, STATE, ZIP 12150 Jefferson Hwy 99E SE, Jefferson, OR 97352
DAYTIME PHONE (if staff has questions about this application): 503-680-0949 (Britany Randall Cell)	E-MAIL: Britany@BRANDLandUse.com
ADDRESS OF SUBJECT PROPERTY: Map and Tax Lot 072W30DB / 2304	SIZE OF SUBJECT PROPERTY: 0.18 acres or 7,709 sq. ft.
<p>The property owners request to change the zone from (current) <u>UD</u> to (proposed) <u>RL</u> and/or change the Comprehensive Plan designation from <u>DR</u> to <u>RM</u>.</p> <p>Provide detailed information on the attached "Applicant Statement" page.</p>	
<p>Will a railroad highway crossing provide the only access to the subject property? ( ) Yes ( ) No</p> <p>If yes, which railroad:</p> <p>NO</p>	

FOR OFFICE USE ONLY:			
Township <u>07</u>	Range <u>2W</u>	Section <u>30DB</u>	Application elements submitted:
Tax lot number(s) <u>2304</u>			<input checked="" type="checkbox"/> Title transfer instrument
Zone: <u>UD</u>	Comp Plan: <u>DR</u>		<input checked="" type="checkbox"/> 2. Site plans showing existing/proposed zoning
Zone map number: <u>127</u>	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural		<input checked="" type="checkbox"/> Applicant statement
<input type="checkbox"/> TPA/header <u>Kerley</u>			<input type="checkbox"/> GeoHazard Peer Review (if applicable)
Case Number: <u>zc/cp 21-008</u>			<input checked="" type="checkbox"/> Filing fee
Signs given (min. agg. only):			Application accepted by: <u>LK</u>
Date determined complete:			Date: <u>8/11/2021</u>

**THE APPLICANT(S) SHALL CERTIFY THAT:**

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

**PRINTED NAME AND SIGNATURE** of each owner of the subject property.

Snow & Kerley Properties, LLC; Paul A. Kerley

Print Name

Signature

Print Name

Signature

Print Name

Signature

Print Name

Signature

DATED this 4<sup>th</sup> day of August 2021

It is up to the applicant to fully explain your proposal and how it conforms to Marion County land use regulations. This is **your** opportunity to provide detailed information on the “who, what, where, when and why” that is specific to your proposal.

These are a few items you should consider including (where applicable):

- Describe the property as it exists now and after implementation of the proposal: topography, existing structures and their use, new or alteration of structures, etc.
- Describe surrounding properties: type of land use, scale of development, etc. and any impact your proposed use might have on these properties such as dust, noise, fumes or odors, traffic, etc. And, if so, what measures will you take to mitigate these impacts?

**Please see the narrative attached to this application packet.**

(use additional paper if needed)

# Comprehensive Plan Amendment with Zone Change in Marion County

Submittal Date:

August 9, 2021

Submitted To:

Marion County Planning

Project Location:

North of 349 Gwendolyn Loop  
Salem, OR (072W30DB02304)

Applicant:

Snow & Kerley Properties, LLC  
Paul A. Kerley, Owner

Applicant's  
Representative:

Britany Randall of BRAND Land Use  
[Britany@brandlanduse.com](mailto:Britany@brandlanduse.com)

# BRAND

FEASABILITY | PLANNING | LAND USE

[BRANDLANDUSE.COM](http://BRANDLANDUSE.COM)

503.680.0949

## Table of Contents

Section 1: Property Background and Request .....	2
Section 2: Existing Conditions .....	2
Section 3: Applicable Zoning Codes .....	3
Section 4: Findings Applicable to Administrative Procedures .....	3
Section 5: Findings Applicable to Zone Change .....	15
Section 6: Findings Applicable to Comprehensive Plan Amendment.....	20
Section 7: Conclusion.....	29
Section 8: Exhibits.....	29
Exhibit A – Marion County Application Form .....	30
Exhibit B – Title Transfer Instrument .....	31
Exhibit C – Site Plan.....	32



## Section 1: Property Background and Request

The applicant is presenting a consolidated application to change the Comprehensive Plan Map Designation and Zoning Designation from DR (Developing Residential) and UD (Urban Development) to Multiple Family with RL (Limited Multiple Family Residential) zoning. The applicant plans to place a duplex on the property, similar to the duplexes which already exist along Gwendolyn Loop to the south of the subject site. The subject site is approximately .18 acres in size and located just north of 349 Gwendolyn Loop NE in Salem (Marion County Assessor map and tax lot numbers: 072W30DB / 2304). The property falls under the jurisdiction of Marion County but is within the City of Salem's UGB (Urban Growth Boundary).

## Section 2: Existing Conditions

The subject property is approximately .18 acres in size and was lawfully created as Parcel 2 of Partition Plat No. 2008-24 recorded in 2008, according to Marion County records. The property is currently vacant. The site is located within the City of Salem's UGB. The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Developing Residential". The proposal is to change the SACP map designation for the property to "Multiple Family".

The Comprehensive Plan designations of surrounding properties include:

North: "Developing Residential"

South: "Single Family Residential" – the three properties to the south are designated Single Family Residential and developed with duplexes. The underlying zone on these properties is Multiple Family which is in conflict with the Salem Area Comprehensive Plan.

East: "Single Family Residential"

West: "Multiple Family"

The SACP is the long-range plan for guiding development within the Salem urban area. Jurisdictions adhere to Oregon's Statewide Land Use Planning Goals by implementing comprehensive plans. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meets the needs of present and future residents of the Salem urban area. Many different documents and maps, when taken together, comprise the Salem Area Comprehensive Plan.

The subject property is zoned UD (Urban Development). The proposal is to change the zoning designation of the property to RL (Limited Multiple Family Residential). Surrounding properties are zoned and used as follows:

North: The property to the north is zoned UD (Urban Development) and is developed with a single family home oriented toward Monroe Avenue NE.

South: The property to the south is zoned Limited Multiple-Family Residential (RL) and is developed with a duplex.

East: The property to the south is zoned Limited Multiple-Family Residential (RL) and is developed with a duplex.

West: The property to the west is zoned RS (Single Family Residential) and is developed with a single-family dwelling.

## Section 3: Applicable Zoning Codes

Chapter 16.36 – Applications

Chapter 16.37 – Application Review Procedures

Chapter 16.39 – Zone Changes

Chapter 16.43 – Comprehensive Plan Amendments

Chapter 16.44 – Procedures for Hearings Before the Hearings Officer

Chapter 16.46 – Application Rights

Chapter 16.47 – Administration of Conditions

## Section 4: Findings Applicable to Administrative Procedures

Chapter 16.36 – Applications

16.36.000 Applications generally.

The provisions in this chapter apply to applications for Comprehensive Plan map amendments and zone changes that are not legislative amendments and applications for conditional uses, property line adjustments, administrative reviews and adjustments. It does not apply to determinations pursuant to Chapter 16.42 MCC or interpretations pursuant to MCC 16.35.200.

**Applicant's Findings:** *As stated in this section, the provisions of Chapter 16.36 are applicable as the request is for a consolidated Comprehensive Plan map amendment and zone change. These amendments are not legislative.*

16.36.010 Forms.

The zoning administrator shall prepare and provide application forms. Application forms shall require the information specified in this chapter and any other information which the zoning administrator may require to analyze the proposed land use on its merits.

**Applicant's Findings:** *The applicant has access to the required land use application forms needed to complete the request. The forms are included with this submittal as Exhibit A.*

#### 16.36.020 Filing.

All applications shall be filed with the planning division on forms prescribed under this section and shall be complete as to all factual information required to be stated on, or furnished with, the application. The application fee shall be paid at the time of the filing of the application. The fees for applications and appeals shall be as prescribed by board order.

**Applicant's Findings:** *The applicant is submitting the required forms and fees to the Marion County Planning Department. The application submittal includes factual information and the required forms have been executed by the property owner. This document provides the applicant's facts and findings for approval of the requested Comprehensive Plan map amendment and zone change.*

#### 16.36.030 Incomplete or unauthorized applications.

The zoning administrator shall reject any incomplete application, or an application not authorized by this title within 30 days of receipt. If the application is rejected, the applicant shall be notified in writing of the cause for rejection.

**Applicant's Findings:** *The applicant understands that pursuant to ORS 227.178(2), if an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section or ORS 197.311 upon receipt by the governing body or its designee of: (a) All of the missing information; (b) Some of the missing information and written notice from the applicant that no other information will be provided; or (c) Written notice from the applicant that none of the missing information will be provided.*

#### 16.36.050 Consolidation.

When an application involves more than one type of application, the applications shall be consolidated, unless the applicant requests otherwise, or the zoning administrator concludes that consolidation will create procedural difficulties.

**Applicant's Findings:** *The applicant is requesting a consolidated review of the requested Comprehensive Plan amendment and zone change. It is not anticipated that the Zoning Administrator will find these applications will create procedural difficulties.*

#### 16.36.070 Required signatures.

Applications shall include the following signatures: A. Signatures of all owners of the subject property; or B. The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale; or C. The signatures of lessee in possession of the property with the written consent of all the owners; or D. The signatures of the agent of those identified in subsection (A), (B) or (C) of this section when authorized in writing by those with the interests described in subsection (B) or (C) of this section, and all the owners of the property; or E. The signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the



subject property without the approval of the property owners; and F. The signature of the applicant and the applicant's address and phone number.

**Applicant's Findings:** *The applicant is submitting the required forms and fees to the Marion County Planning Department. The application submittal includes factual information and the required forms have been executed by the property owner. This document provides the applicant's facts and findings for approval of the requested Comprehensive Plan map amendment and zone change.*

#### 16.36.080 Application contents.

A complete application shall include the following: A. The signatures required in MCC 16.36.070. B. The names and addresses of mortgagees or contract sellers of the subject property. C. The address of the subject property. D. A copy of the latest transfer document. E. The application fee. F. A plot plan, drawn to scale, that shows the boundaries of the property, location and general configuration of existing and proposed structures and other improvements proposed as part of the application. G. A written explanation of the proposal and how it conforms to the applicable criteria. H. Such other information deemed necessary by the zoning administrator and requested on the application form.

**Applicant's Findings:** *The applicant believes this application submittal is complete and meets all of the requirements for processing by Marion County. Shall the Zoning Administrator find additional information is needed; the applicant will provide information upon written request.*

#### 16.36.090 Preliminary processing of applications.

When the application is submitted, the zoning administrator shall: A. Establish a file and assign a case number. B. Review the application and decide if it is complete pursuant to MCC 16.36.080. C. Request comments from affected agencies.

**Applicant's Findings:** *The applicant understands the Zoning Administrators duties for processing the application. This is especially important for a Comprehensive Plan amendment as the City of Salem is the custodian of the SACP which the applicant is requesting to amend.*

#### 16.36.120 Submittal of supporting evidence.

The applicant has the burden of persuasion by a preponderance of the evidence. To meet this burden, the applicant must, in addition to filing a complete application, provide evidence that the application satisfies the applicable criteria.

**Applicant's Findings:** *The applicant is aware that they hold the burden of proof that the request meets each of the applicable criteria to be granted a Comprehensive Plan amendment and zone change. The applicant has provided findings to the applicable Marion County zoning codes, as well as the City of Salem's Comprehensive Plan policies and the applicable Oregon Statewide Planning Goals. The applicant has provided sufficient evidence and findings for the requests to be approved.*

## Chapter 16.37 – Application Review Procedures

### 16.37.000 Authority to decide.

Except as provided in MCC 16.37.010, the zoning administrator is authorized to make the initial decision on applications for conditional use permits, partitions, property line adjustments, determinations, administrative reviews and adjustments. The zoning administrator is authorized to forward any application to the hearings officer for the initial decision, at the zoning administrator's discretion. The hearings officer is authorized to make the initial decision on zone change applications (Chapter 16.39 MCC), and applications for nonlegislative amendment to the Comprehensive Plan (Chapter 16.43 MCC). The requirements in this chapter shall govern the review of these applications.

**Applicant's Findings:** *The applicant is requesting a nonlegislative Comprehensive Plan amendment and a zone change for property located within Marion County. In accordance with this section, the Hearings Officer is authorized to make the initial decision.*

### 16.37.010 Board authority.

The governing body may at any time, on its own motion, call up any application and make the decision. In those cases where the board exercises its authority to make the decision on any application, that decision is final and appealable only as provided by Oregon law as an appeal from the final decision of the governing body. The board has sole authority to decide legislative amendments to this title (MCC 16.38.000) and legislative amendments to the Comprehensive Plan (MCC 16.43.000(B)).

**Applicant's Findings:** *The applicant is aware that the Marion County Board of Commissioners may at its own will call up any application for review and decision. However, the applicant anticipates this application to be reviewed before the Hearings Officer during a public hearing.*

### 16.37.020 Hearings, notices, and staff reports.

- A. If the hearings officer makes the initial decision, the zoning administrator shall set the matter for public hearing, provide notice as required in Chapter 16.44 MCC, and submit a written report.
- B. If the application is called up by the board, or if the board chooses to hear an appeal, the board shall schedule the hearing and the zoning administrator shall provide notice as required in Chapter 16.44 MCC. In the instance of a board call-up, a written report shall be prepared.
- C. The initial staff report on an application being heard by the hearings officer or the board shall be available to the public at least seven days prior to the hearing date.
- D. If the application was first decided by the zoning administrator, the decision, including written findings, shall be considered the initial staff report. The zoning administrator may submit supplemental reports prior to or at a hearing before the hearings officer or board.

**Applicant's Findings:** *The applicant is aware of and understands the above procedures for hearings, notices, and staff reports. The applicant has prepared findings in a manner which is intended to aid County Staff in writing their own facts and findings with a recommendation of approval to the Hearings Officer.*

#### 16.37.030 Zoning administrator decisions.

When the initial decision is made by the zoning administrator, the zoning administrator shall: A. Prepare a written decision based on the information in the file, including the findings and conclusions in support of the decision. B. Provide notice of the decision approving or denying the application to the applicant, the owners, contract sellers and mortgage holders of the subject property identified in the application, agencies indicating substantial concerns in comments and requesting a copy, and anyone entitled to notice by state law except as provided in subsection (C) of this section. C. Provide notice to those on the notification list.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.040 Reconsideration of zoning administrator's decision.

A. The applicant may file a request for reconsideration of a decision made pursuant to MCC 16.37.030 with the planning division within 15 days of the date the notice of decision is mailed. The request must be in writing and must explain wherein the decision is: 1. Factually or legally incorrect; or 2. State new facts material to the decision that were not available to the zoning administrator; or 3. Propose modifications that will better conform the proposal to the requirements of the ordinance.

B. The request for reconsideration shall include a signed extension of the 120-day time limit in ORS 215.427.

C. The zoning administrator may withdraw a decision during the appeal period and issue a new or modified decision provided notice of the withdrawal and subsequent decision is mailed to those who received notice of the original decision.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.050 Reconsideration review.

The zoning administrator shall provide written notice of the decision on requests for reconsideration, or for decisions issued after the zoning administrator withdrew a previous decision, and mail notice as provided in MCC 16.37.030.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.060 Limit on reconsideration.

Applicants shall be limited to one request for reconsideration per application.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.070 Final decision.

A decision on an application made by the zoning administrator pursuant to this chapter becomes a final decision when the period for appeals or requests for reconsideration expire.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.080 Appeal of zoning administrator's decision.

An appeal may be filed with the planning division within 15 days of the date the notice of decision is mailed or within 15 days of the date the zoning administrator mails a notice of decision in a reconsideration. The appeal must be in writing. Legal counsel may appeal the zoning administrator's decision.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.090 Conflicting requests.

When a request for reconsideration and an appeal are received within the 15-day appeal period, the appeal shall take precedence and the zoning administrator shall schedule a public hearing as provided in MCC 16.37.100.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

#### 16.37.100 Notice of appeal hearing.

At the end of the appeal period and upon receipt of one or more timely filed appeals, the zoning administrator shall, with the concurrence of the hearings officer, schedule the application for public hearing before the hearings officer; provided, the zoning administrator may present the appeal to the board to determine if the board wishes to assume jurisdiction. The zoning administrator shall provide notice of the hearing as prescribed in Chapter 16.44 MCC.

**Applicant's Findings:** *The application is quasi-judicial and requires a public hearing and review for consideration before the Hearings Officer. This section is not applicable to the application type.*

### Chapter 16.44 – Procedures for Hearings Before the Hearings Officer

#### 16.44.010 Procedure for public hearing.

When a public hearing is required pursuant to MCC 16.37.020 and 16.37.080, the procedures and notification requirements in this chapter and state law shall apply.

**Applicant's Findings:** *Pursuant to MCC 16.37.020, this application is quasi-judicial and requires review and consideration before the Hearings Officer, and a public hearing. The applicant*

*understands the procedures outlined in Chapter 16.44 are applicable to this land use application case and will adhere to the requirements of these sections and applicable requirements of the ORS.*

#### 16.44.020 Scheduling.

Except as provided in MCC 16.37.010, the zoning administrator shall schedule a hearing before the hearings officer. If the applicant requests a different hearing date, the zoning administrator may reschedule the hearing. If the hearings officer requests a change in the hearing date, the zoning administrator shall reschedule the hearing accordingly. If the applicant has requested the change, and the hearing date is later than would otherwise have been scheduled, the zoning administrator may make the rescheduling contingent on the applicant granting an extension of any time limit for reaching a decision in state law. If, as a result of the applicant's request for a different hearing date, renotification is required, the applicant shall pay a renotification fee.

**Applicant's Findings:** *The application understands the scheduling procedures for the public hearing and the requirement to pay a renotification fee if the applicant must delay the public hearing for any reason.*

#### 16.44.030 Hearing notice.

A. Notice of a hearing shall be mailed by the zoning administrator to the applicant, owners, contract sellers and mortgage holders of the subject property identified in the application, those on the notification list, and to anyone entitled to notice under state law at least 20 days prior to the date of the hearing. Failure of anyone to receive mailed notice shall not affect the validity of the proceedings.

B. The notice shall include: 1. The date, time and location of the hearing; 2. The nature of the application, and the proposed uses that could be authorized; 3. The address or other easily understood geographical reference to the subject property; 4. A list of the topical headings and numbers of the criteria from the applicable city comprehensive plan and this title that apply; 5. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the hearings officer an opportunity to respond to the issue, precludes appeal to the land use board of appeals on that issue; 6. The name of the zoning administrator's staff to contact, and the telephone number where additional information may be obtained; 7. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost upon request; 8. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost upon request; 9. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; 10. All documents or evidence relied upon by the applicant shall be submitted to the zoning administrator and be available to the public at the time notice of the hearing is provided.

**Applicant's Findings:** *The applicant understands the hearing notice requirements of the Zoning Administrator. The application submittal prepared by the applicant is thorough and includes all of the required information County Staff will need to properly notice all tenants and owners within the notification area. The applicant understands that all evidence submitted to support the request will become public record and is viewable at the time of notice.*

#### 16.44.100 Conduct of hearings.

A. The board shall adopt procedures for the conduct of hearings before the hearings officer consistent with the requirements of this title and state law.

B. At the commencement of a hearing, a statement shall be made to those in attendance that:

1. Identifies the applicable substantive criteria; 2. Testimony and evidence must be directed toward the identified criteria or other criteria in the plan or this title which the person believes to apply to the decision; and 3. Failure to raise an issue precludes appeal to the land use board of appeals based on those criteria.

C. The hearings officer may continue the hearing to a certain date, may close the hearing and keep the hearing record open to a certain date to allow submittal of written testimony, and may reopen the hearing record to admit new evidence or testimony.

D. If documents or evidence in support of the application are submitted after notice is provided, any party may be entitled to a continuance of the hearing.

E. If the hearings officer has not granted a continuance, the record shall remain open for at least seven days for submittal of written testimony upon request of a participant before the close of the hearing.

F. If the hearings officer reopens the hearing record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

**Applicant's Findings:** *The applicant is familiar with the conduct of a public hearing. The applicant or their representative will follow the procedures outlined in this section.*

#### 16.44.200 Decisions and notice.

A. Following the close of the hearing, the hearings officer shall issue a written order or recommendation. The order shall be transmitted to the board's office. The file and a copy of the order shall be transmitted to the zoning administrator.

B. Notice of the decision shall be mailed to the applicant, the applicant's representative, the owners of the subject property identified in the application, and those who testified at the hearing or requested notice in writing.

C. A decision by the hearings officer shall be effective 15 days from the date the order is mailed, unless appealed, called up by the board, or further action is required pursuant to MCC 16.39.040.

**Applicant's Findings:** *The applicant understands at the close of the public hearing, the hearings officer will provide a written order or recommendation to the County Commissioners and a copy provided to the Zoning Administrator. The applicant understands the decision is not effective until 15 days post the date the order is mailed barring any appeal, callup, or other action.*

#### 16.44.300 Appeals of hearings officer decision.

A. An appeal shall be in writing and shall request that the board hold a hearing on the application. The appeal must: 1. Explain wherein the decision is factually or legally incorrect; or 2. Present new facts

material to the decision; or 3. Propose modifications that will better conform the proposal to the requirements of this title.

B. The appeal shall be filed with the county clerk within 15 days of the mailing of the hearings officer's decision.

C. If an appeal of a hearings officer's decision is timely filed, the decision shall not become effective, and the appeal shall be scheduled for consideration by the board.

D. The zoning administrator may appeal the decision of the hearings officer to the board.

**Applicant's Findings:** *The applicant understands their right to appeal the decision as well as the right of others to appeal. Additionally, the applicant is aware of the appeal procedures and the 15-day time constraint to file with the county clerk.*

#### 16.44.400 Notice of final decisions.

When the clerk does not receive notice of appeal pursuant to MCC 16.44.300 prior to the expiration of the appeal period, the decision becomes final and the zoning administrator shall provide notice of the effective date of the hearings officer's decision to the applicant, owner of the property included in the application, and those requesting notice; provided, in the case of a hearings officer's decision approving a plan amendment or zone change where a board hearing is not required, an ordinance shall be prepared for board adoption. Upon adoption of the ordinance, the zoning administrator shall provide the notice required in MCC 16.45.040.

**Applicant's Findings:** *The applicant is requesting a Comprehensive Plan map amendment and zone change. In accordance with this section, a board hearing will be required.*

### Chapter 16.46 – Application Rights

#### 16.46.010 Resubmission of application.

If a Comprehensive Plan land use designation amendment, zone change, conditional use, partition, property line adjustment, administrative review or adjustment application is denied on the merits, this denial shall be a bar to refiling the same or substantially similar application for a period of 12 months from the date of the final decision.

**Applicant's Findings:** *The applicant has submitted a complete application with strong facts and findings demonstrating the appropriateness of this request and does not anticipate the application will be denied. However, the applicant is aware of the 12-month rule regarding resubmission.*

#### 16.46.020 Effective date.

Decisions approving or denying applications shall become final at the close of business on the last day an appeal or a request for reconsideration can be filed. The zoning administrator shall not authorize building permits or other permits requiring conformance with this title before the decision becomes effective.

**Applicant's Findings:** *The applicant understands building permits or other permits requiring conformance with this title will be delayed until the decision is final. However, the applicant has*

*the ability to submit for building permits to begin the review process and assumes the risk should the application be denied.*

16.46.030 Expiration of rights granted.

The following provisions apply to all decisions except those enacted by ordinance:

A. Rights granted by a decision approving an application must be substantially exercised within two years unless a lesser period is specified in the conditions of approval, or unless the effective period is extended as provided in MCC 16.46.040. If the rights granted are not substantially exercised during the effective period as provided in subsection (B), (C), or (D) of this section, the rights shall expire.

B. Where the exercise of rights under an approved application involves work for which a building permit is required, the rights granted shall expire if a building permit has not been issued prior to the expiration of the effective period. Where the approval refers to phased development, the rights granted shall expire if building permits for the first phase are not issued prior to the expiration of the effective period.

C. If a building permit integral to the exercise of the rights granted has been issued, the rights granted shall be considered exercised. If the building permit expires, the rights granted shall be considered expired if less than 50 percent of the value of the authorized construction has been completed.

D. For the purpose of this section, if the rights granted do not involve work for which a building permit is required, the rights granted shall be considered exercised when a substantial portion of the use benefited by the rights granted has been established.

**Applicant's Findings:** *The applicant is seeking approval for a Comprehensive Plan amendment and zone change for a .18-acre property. The property is currently vacant and is planned to be developed with a duplex, matching the other properties to the south which also take access from Gwendolyn Loop. The applicant understands the rights of this application do not grant the right to build the proposed duplex and building permit review and approval will also be required.*

16.46.040 Extensions of rights granted.

A. The effective period of an approved application may be extended by the final decision maker or the zoning administrator for additional one-year periods if: 1. There have been no changes in land use law or plan policy that would apply to the application if reapplication was required; and 2. A written request for an extension is filed by the applicant or applicant's successor prior to the expiration of the approval; and 3. The decision, if rendered after the adoption of this title, included reference to the possibility of an extension, and the extension is consistent with any limits on extensions imposed in the original decision.

B. There shall be no limit on the number of extensions that may be requested and approved.

C. Approval of an extension granted under this section is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision.

**Applicant's Findings:** *The applicant understands that extensions of rights granted are not limited but must be filed timely with the Zoning Administrator. Should the applicant need an extension, they will comply with the provisions of this section.*



#### 16.46.050 Amendment of conditions.

Excepting conditions adopted by ordinance, conditions imposed as part of approved applications may be amended as provided in this section if the rights have not expired or terminated:

- A. An application for amendment shall be submitted on the form supplied for new applications;
- B. The request shall include the fee for amendments;
- C. A new notification list shall be provided if the request is submitted more than 60 days after the original notification list was prepared;
- D. A new file need not be established;
- E. The amendment request shall be considered by the maker of the first decision;
- F. Except as modified herein, the procedures in this title for review of the original application shall apply.

**Applicant's Findings:** *The applicant understands if an amendment of conditions is requested it will be reviewed by the Hearings Officer and fees are associated with such a request. If the applicant finds it necessary to request an amendment, they will adhere to the requirements of this section.*

#### Chapter 16.47 – Administration of Conditions

##### 16.47.010 General provisions.

Conditions authorized by this title for zone changes, partitions, subdivisions, property line adjustments, administrative reviews, adjustments, and conditional uses are either conditions that must be satisfied before the exercise of the rights granted or are conditions that apply continuously during the exercise of the granted rights. Unless specified otherwise, the provisions of this chapter apply in administering conditions of approval.

**Applicant's Findings:** *The applicant understands the Hearings Officer May impose conditions on the zone change portion of this application and said conditions may be continuous or items which need to be satisfied before the exercise of the rights are granted, as clarified in the final decision.*

##### 16.47.020 Completion before occupancy.

Except as provided in MCC 16.47.030 and 16.47.050, conditions of approval shall be satisfied prior to establishment of the use.

**Applicant's Findings:** *The applicant is requesting a Comprehensive Plan amendment and zone change to multiple family. The surrounding uses are residential with a mix of housing types. As such, the requested redevelopment of the property is compatible with the existing surrounding uses. The applicant proposes to place a duplex on the subject property. The proposal matches the development on the parcels to the south which also take access from Gwendolyn Loop. Because the applicant is proposing to mirror the existing development to the south, it is not anticipated many conditions would be imposed. However, the applicant does understand the*

*conditions included in the final decision of the Hearings Officer must be satisfied prior to the establishment of the use.*

#### 16.47.030 Performance agreements.

Where the zoning administrator determines that a condition cannot practically be accomplished prior to inception of the use, the applicant and property owner shall sign a performance agreement allowing one year following commencement of the use to comply with the condition. The agreement may provide for a performance bond or other reasonable security for performance including but not limited to a trust deed. The amount of the bond or security shall be based on 100 percent of the estimated cost of improvements within public rights-of-way and 50 percent of estimated improvement costs on the subject property. The Marion County department of public works shall estimate the cost of improvements within public rights-of-way and the building official shall estimate costs of on-site improvements. The amount of the bond or security shall not be reduced, or the bond or security terminated without county approval.

**Applicant's Findings:** *The applicant understands a performance agreement may be necessary if the Zoning Administrator determines a condition cannot be completed prior to the inception of the use. However, based on the nature of the request, the applicant does not anticipate this will be required.*

#### 16.47.040 Limitations.

Performance agreements shall not be used to defer improvements such as, but not limited to, off-street parking, that are necessary to immediately protect the public health, safety, and welfare.

**Applicant's Findings:** *The applicant agrees that performance agreements should not and cannot be used to delay items which would impact the health, safety, and welfare of the public.*

#### 16.47.050 Performance bonds.

If the conditions covered in the performance agreement are not met within one year, the county may cause the conditions to be satisfied and recover the cost, plus a 10 percent administrative charge from the bond, the security, or the applicant.

**Applicant's Findings:** *The applicant understands the penalties which may be imposed by the county if the conditions of a performance bond are not met within one year.*

#### 16.47.060 Continuing requirements.

When conditions require that improvements or certain conditions be maintained or continued over a period of time, the decision may require a performance bond or other security in support of a performance agreement. If the agreement includes a performance bond or other security, it shall provide that within 30 days of notice to the property owner the county may cause unmet conditions to be satisfied and recover the cost, plus a 10 percent administrative charge from the bond, the security, or the property owner. When the agreement is for maintenance, the bond or security value shall be 25 percent of estimated installation cost or \$2,500, whichever is greater. Conditions not related to improvements shall not require a bond or security unless the requirement and amount are established in the land use decision.

**Applicant's Findings:** *The applicant understands the provisions of this section regarding to continuing requirements for conditions of approval.*

#### 16.47.070 Extensions.

The zoning administrator may grant one-year extensions for a performance agreement if in the opinion of the zoning administrator the extended performance agreement meets the requirements of this chapter and the one-year delay will not adversely affect the public health, safety, and welfare. If the original decision was not made by the zoning administrator, the concurrence of the original decision maker is required. Concurrence by the department of public works is also required if the extension relates to improvements administered by the department of public works.

**Applicant's Findings:** *The applicant understands they have the right to ask for a one-year extension to the performance agreement and that an extension for this application type must be granted by the Hearings Officer.*

## Section 5: Findings Applicable to Zone Change

### Chapter 16.39 – Zone Changes

#### 16.39.000 Initiation of zone changes.

A. Any amendment of the official zoning map involving five or less different ownerships, and which does not include any amendment to the text of the ordinance, is a zone change application. A zone change may be initiated in the manner provided for applications in Chapter 16.36 MCC.

B. Zone changes may also be initiated by resolution of the board or planning commission when the change is for some governmental purpose or in order to bring the zoning ordinance and zoning map into compliance with the Comprehensive Plan or state law.

**Applicant's Findings:** *The proposed .18-acre property satisfies (A) above. The applicant has included evidence of ownership with this application submittal as Exhibit B. The request does not include any amendment to the text of the ordinance.*

#### 16.39.010 Authority to decide.

Except as provided in MCC 16.39.020, the hearings officer is authorized to make the initial decision on zone change applications. The requirements in this chapter shall govern the review of these applications.

**Applicant's Findings:** *The applicant is requesting a consolidated review of a Comprehensive Plan amendment and zone change for property located within the City of Salem's Urban Growth Boundary under Marion County's jurisdiction. It is understood that the Hearings Officer is the review authority unless the application is called up by the County Board of Commissioners.*

#### 16.39.020 Board authority.

The governing body may at any time, on its own motion, call up any zone change application or resolution and make the decision on said application or resolution. In those cases where the board

exercises its authority to make the decision on the zone change proposal, that decision is final and appealable only as provided by Oregon law as an appeal from the final decision of the governing body.

**Applicant's Findings:** *The applicant understands the County Board of Commissioners may choose to call up the application for review and issue a decision. The applicant understands the decision would be final and may only be appealed to the Oregon Land Use Board of Appeals.*

#### 16.39.030 Review procedures.

The zoning administrator shall set the matter for public hearing before the hearings officer and provide hearing notice as prescribed in Chapter 16.44 MCC. Review by the hearings officer shall be as prescribed in Chapter 16.44 MCC. Review by the board shall be as prescribed in Chapter 16.45 MCC. The zoning administrator shall prepare a written report to be included in the hearing record. A zone change may be modified to apply to only a portion of the subject property. A change to a zone more restrictive than requested may be approved provided the possible consideration of a more restrictive zone is indicated in the hearing notice.

**Applicant's Findings:** *The applicant has prepared and submitted a complete record of findings to the Zoning Administrator which proves the merit of the request. It is the applicant's intent for the written narrative to be a resource to County Staff when preparing the required written report ahead of the public hearing. The applicant understands the requirements of the Zoning Administrator regarding review procedures for the application type.*

#### 16.39.040 Hearings officer's decision.

A hearings officer's decision on a zone change may be appealed to the board as provided in MCC 16.44.300. A hearings officer's decision to approve a zone change does not become final until the board adopts an ordinance implementing the decision. A hearings officer's decision to deny a zone change is final when the appeal period has expired unless the board calls up the application as provided in MCC 16.39.020 or a board hearing is required by state law.

**Applicant's Findings:** *The applicant understands the procedures surrounding the Hearings Officer's decision and their right to a timely appeal.*

#### 16.39.050 Criteria.

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.

**Applicant's Findings:** *As described throughout this written narrative, the applicant is requesting a consolidated Comprehensive Plan amendment and zone change. The Salem Area Comprehensive Plan currently designates the subject property as Developing Residential (DR) and the Marion County zoning map designates the property as Urban Development (UD). The request is to redesignate the property as multiple family residential both on the Salem Area Comprehensive Plan and the Marion County zoning map. At the completion of this project, the Comprehensive Plan designation and zoning classification of the subject property will be*

*consistent, thereby meeting the requirements of this criterion. The applicant addresses the applicable Comprehensive Plan policies and Statewide Planning Goals under Section 6 of this document.*

*With the approval of the consolidated Comprehensive Plan amendment, the proposal will meet this criterion.*

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

**Applicant's Findings:** *The subject property is within the City of Salem's Urban Growth Boundary. Though the property has not been annexed into the City, water and sewer infrastructure is in place and available within surrounding streets/areas and appear to be adequate to serve the future proposed development. Site-specific infrastructure requirements should be evaluated and imposed in more detail at the time of development to ensure they are designed to adequately serve the project. At a future date, the applicant will apply for the necessary building permits to construct the duplex on the subject property.*

*Gwendolyn Loop serves the subject property as well as the three matching duplex properties to the south. Gwendolyn Loop is a local street and connects to Elma Street NE. Any future development on the property will have access to a full and complete transportation network which is currently in place.*

*The proposal meets this criterion.*

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

**Applicant's Findings:** *The applicant is proposing a zone change from UD (Urban Development) to RL. Upon approval of the requested zone change, development of the property will be subject to the provisions of MCC Chapter 16.4 for multiple-family residential development. At a future date, the applicant will submit for building permits to construct the proposed duplex.*

*According to MCC Chapter 16.4, the RM (multiple-family residential) zone is primarily intended to provide for multiple-family dwellings on a lot, or attached dwellings on separate lots, at residential densities greater than permitted in the RL zone. Other uses compatible with residential development are also appropriate. RM zones are located in areas designated as multiple-family residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with urban services. They are suited to locations near commercial office and retail zones and along collector and arterial streets.*

*Upon evaluation of the subject property, it is clear the project site will be consistent with the purpose statement of the RM zone. The property is located to the north of 349 Gwendolyn Loop NE. The three properties to the south of the subject site are developed with duplexes. The applicant plans to mirror these developments on the subject property which will seamlessly complete this portion of the neighborhood.*

*The surrounding area is urbanized and has access to utility infrastructure which is anticipated to have the capacity to meet the requirements of the future duplex development. The subject property dimensions closely match the dimensions of the properties to the south which are*

developed with duplexes. The subject property is located in an urbanized area of the city where services exist in the vicinity of the site, including shopping, employment, entertainment, parks, elementary, middle, and high schools. The Lancaster Drive corridor is located west of the property which has commercial nodes providing a wide range of shopping, employment, and entertainment opportunities.

The requested zone change is submitted in conjunction with a request to amend the Salem Area Comprehensive Plan to redesignate the property to RM (Multiple Family Residential). By submitting a consolidated application, the applicant is preventing conflict between the Marion County zoning map and the Salem Area Comprehensive Plan map. The City of Salem has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of land available for multifamily residential development. The proposal would convert approximately .18 acres of land away from single-family residential, to a Multiple Family Residential designation, where the HNA identifies a deficit within the City's Urban Growth Boundary.

*The proposal meets this criterion.*

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.

**Applicant's Findings:** *The proposal is to change the zoning designation of the property to RL (Limited Multiple Family Residential). Surrounding properties are zoned and used as follows:*

**North:** *The property to the north is zoned UD (Urban Development) and is developed with a single family home oriented toward Monroe Avenue NE.*

**South:** *The property to the south is zoned Limited Multiple-Family Residential (RL) and is developed with a duplex.*

**East:** *The property to the south is zoned Limited Multiple-Family Residential (RL) and is developed with a duplex.*

**West:** *The property to the west is zoned RS (Single Family Residential) and is developed with a single-family dwelling.*

*The proposed zone will allow a more intensive use of the property than the zones of properties abutting the site to the north and east. However, the proposed zone is still for residential uses which is compatible with the uses allowed on the adjacent properties. Residential fences and landscaping are practical ways of buffering the more intense residential uses from the lower density residential uses within the vicinity.*

*The proposal meets this criterion.*

16.39.060 Conditional zone changes.

A. Authority. The board or hearings officer shall have authority to include conditions in the decision on a zone change. Conditions shall be limited to those matters identified in subsection (B) of this section found to be necessary and in the public interest.

B. Matters that may be conditioned: 1. Size, height, and location of buildings and accessory structures; 2. Landscaping when necessary to provide screening from incompatible adjacent uses or from public right-of-way; 3. Retention of existing trees and vegetation for buffering purposes; 4. Size, location, screening, drainage, and surfacing of driveways, parking and loading areas, and street access; 5. Size, height, location and illumination of signs; 6. Size, height, location, and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public right-of-way; 7. Location and intensity of outdoor lighting; 8. Hours of operation or conduct of particular activities; 9. Abatement, mitigation, or prevention of nuisances; 10. Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water, and turn-outs and shelters for mass transportation; provided the condition applies only to the subject property or public right-of-way or easements abutting the subject property; 11. Funds for provision, or improvement, of traffic signs, signals and turn lanes at the first intersection(s) of the street(s) abutting the subject property with a collector or arterial street. The amount of funds shall be based on a current estimate of costs of the needed improvements and the share of traffic to be added to the intersection by the uses in the proposed zone that generates the greatest traffic impact; 12. Conditions may require that all or part of the development or use be deferred until the happening of certain events such as the availability to the subject property of a certain level of service; 13. Conditions may require that requirements imposed under this section be filed in the deed records of Marion County.

***Applicant's Findings:** Typically, when land use actions are approved with conditions, the intent of the conditions is to mitigate impact of the proposed development on surrounding properties. In the case of this request, the applicant is proposing multiple-family development be allowed on property which is abutting other multifamily designated properties. The applicant plans to develop the property with a duplex which mirrors the development on the three parcels to the south along Gwendolyn Loop. Prior to development of the subject site, the applicant will be required to submit for building permits for the proposed duplex. Should the Hearings Officer choose to impose conditions of approval on the zone change portion of this request, the applicant understands what items may be conditioned as outlined in Section B above.*

16.39.070 Limits on conditions.

The following limits and requirements apply to conditions imposed pursuant to MCC 16.39.060:

A. Conditions shall be stated with specificity; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.

B. Conditions which would have the effect of limiting use of the subject property to one particular owner, tenant, or business shall not be imposed. Conditions shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.

C. The provisions of Chapter 16.47 MCC shall apply to conditions imposed on a zone change.

D. If the dedication of street right-of-way or street improvements are required as provided in MCC 16.39.060(B)(10) and (11), provision of dedication, improvements or funding shall be deferred until a building permit or certificate of occupancy is required or prior to the use being established.

**Applicant's Findings:** *The applicant understands the limits on conditions imposed on this request.*

16.39.080 Adjustments to development requirements.

The zone change decision may expressly authorize an adjustment from the applicable development requirements of this title, regardless of whether an application was filed for such adjustment, provided each of the following conditions is met:

A. The granting of the adjustment meets the criteria set forth in Chapter 16.41 MCC, except that the applicant shall bear no burden of proof as to such criteria;

B. The adjustment is required to accomplish a condition imposed as a part of the conditional zone change; and

C. The need for the adjustment was identified during the public hearing on the zone change.

**Applicant's Findings:** *No adjustment is requested or will be needed in order to efficiently develop the subject site with one duplex. The applicant understands if conditions are imposed which force an adjustment to development standards to be taken, the need must be presented during the time of the public hearing. The applicant still maintains the right to apply for an adjustment, if one is necessary, when they submit for building permits for the future development.*

## Section 6: Findings Applicable to Comprehensive Plan Amendment

### Chapter 16.43 – Comprehensive Plan Amendments

16.43.000 Definitions.

A Comprehensive Plan amendment is any amendment to the Marion County Comprehensive Plan, and any city comprehensive plan applied outside of the respective city limits, which deletes, supplements, or changes the text, land use map designations, or urban growth boundaries or takes an exception to a statewide land use goal.

A. A nonlegislative Comprehensive Plan amendment is a Comprehensive Plan amendment that only involves a change to the land use designation of five or fewer different ownerships.

B. A legislative Comprehensive Plan amendment is all Comprehensive Plan amendments other than nonlegislative amendments.

**Applicant's Findings:** *The applicant is requesting a nonlegislative Comprehensive Plan amendment to the City of Salem Comprehensive Plan map for a single .18-acre property within the City of Salem's Urban Growth Boundary but under Marion County's jurisdiction. This application meets the criterion of section A above.*



#### 16.43.010 Procedures for legislative plan amendments.

Procedures and criteria for legislative plan amendments shall be as provided in Chapter 16.38 MCC for legislative zone amendments. In addition, applicable procedural requirements in an intergovernmental agreement regarding land use coordination between Marion County and the city which adopted the applicable comprehensive plan shall apply. All proposals to amend the Comprehensive Plan shall be forwarded to the Director of the Department of Land Conservation and Development prior to the first evidentiary hearing.

**Applicant's Findings:** *The applicant is submitting for review, a nonlegislative plan amendment. This criterion is not applicable to this application.*

#### 16.43.020 Procedures for nonlegislative plan amendments.

Procedures for nonlegislative plan amendments shall be as provided in Chapter 16.39 MCC for zone changes. All proposals to amend the Comprehensive Plan shall be forwarded to the Director of the Department of Land Conservation and Development prior to the first evidentiary hearing. The criteria for nonlegislative plan amendments are:

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.

**Applicant's Findings:** *The request is subject to the plan goals, policies, and intent of the Salem Area Comprehensive Plan as the subject property is located within the City of Salem's Urban Growth Boundary. The Salem Area Comprehensive Plan is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meets the needs of present and future residents of the Salem urban area. Many different documents and maps, when taken together, comprise the Salem Area Comprehensive Plan. Amendments to the Comprehensive Plan Map are classified as either major or minor. Because the proposed amendment affects only one property, rather than a large number of properties across the city, the proposal meets the definition of a Minor Plan Map Amendment. The applicant is requesting a consolidated zone change and Comprehensive Plan amendment to RM (Multiple Family Residential).*

*The proposed Multi-Family designation is logical near a Major Arterial Street corridor. The surrounding area is well established and there is a large area of properties to the south and west of the subject site which are designated Multiple Family in the Salem Area Comprehensive Plan. Additionally, there are several pockets which have the potential to be redeveloped with higher density residential developments which would keep with the character of the neighborhood by providing a diverse mix of housing types. This pattern is reflected in the Salem Area Comprehensive Plan Map. The subject property's location makes the proposed MF designation a logical choice for the site, given its location near Lancaster Drive and the Interstate.*

*The applicable Goals and Policies of the Salem Area Comprehensive Plan are addressed as follows:*

Salem Urban Area Goals and Policies, Residential Development Goal (Page 30, Salem Comprehensive Policies Plan):

Policy E.1. The location and density of residential uses shall be determined after consideration of the following factors;

- a. The type and distribution of housing units required to meet expected population growth within the Salem urban growth boundary.

**Applicant's Findings:** As stated previously in this narrative, the City has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of land available for multifamily residential development. The proposal would convert approximately .18 acres of land away from the developing residential designation to the Multiple Family designation, where the HNA identifies a significant deficit.

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

**Applicant's Findings:** The land proposed for the Comprehensive Plan Map and zone change appears to have capacity for Limited Multiple Family Residential development such as the duplex development proposed by the applicant. The relative environmental suitability of the property is even greater when compared to the steeper residential properties in the southern portions of the City. There are no known natural hazards or geographical constraints which would prevent development of higher-density housing on the site.

- c. The capacity of public facilities, utilities, and services. Public facilities, utilities, and services include, but are not limited to municipal services such as water, sanitary and storm sewer, fire, police protection and transportation facilities.

**Applicant's Findings:** Adequate utilities are available to serve the property. The property is located within the Suburban East Salem Water District and has access to City of Salem infrastructure. The water, sewer, and storm infrastructure area available within surrounding streets/areas and appear to be adequate to serve the proposed development. Site-specific infrastructure requirements will be addressed thoroughly when the applicant submits for building permits for the future duplex development.

- d. Proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal services.

**Applicant's Findings:** The property is located in an urbanized area of the city where services exist in the vicinity of the site, including a shopping, employment, entertainment, parks, elementary, middle and high schools. The Lancaster Drive corridor is located west of the property which has commercial nodes providing a wide range of shopping, employment, and entertainment opportunities. There are several churches and commercial properties within the immediate

vicinity. The diverse mix of property types within the area provide for multiple opportunities for employment.

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

**Applicant's Findings:** As described in findings above, residential properties in the vicinity of the site are developed, or planned for development, at a range of densities. The proposed Multiple Family designation matches properties to the west. Where the site abuts lower density residential properties to the north, there are standards established within the Limited Multiple Family development code to ensure an adequate transition to the smaller bulk and scale of single-family residences.

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

**Applicant's Findings:** The subject property is located within the City of Salem's Urban Growth Boundary but has yet to be annexed into the City and falls within Marion County's jurisdiction. This policy is not applicable to the proposal.

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

**Applicant's Findings:** General Development Policy 7 provides in part that "the cumulative effect of all new residential development in the Salem urban area should average 6.5 dwelling units per gross acre of residential development." When applied to the subject property, the range of densities allowed in zones implementing the Multiple Family Residential designation provides for more dwelling units than the 6.5 dwelling units per acre, which is consistent with the Housing Needs Analysis (HNA) prepared in 2015.

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

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

**Applicant's Findings:** The development standards established in the Marion County Code for limited multiple family developments will ensure the duplex developed on the property is adequately served. The subject property takes access from Gwendolyn Loop which connects to a complete system of local county streets and accommodate pedestrian, bicycle, and vehicular access in and out of the development. It is well known the Salem area has a great need for diverse housing types. By including pockets of multiple family, where appropriate, the population growth within the area can be better served. There are no known existing nuisances or hazards that would impact future residents of the development.

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

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

***Applicant's Findings:*** *The RL (Limited Multiple Family Residential) zone proposed by the applicant permits a two-family attached dwelling on a single lot, encouraging efficient use of residential land and public facilities. As described in findings above, the immediate vicinity includes a range of densities within existing developments and zoning district standards for undeveloped properties. The property just a few blocks from Route 11 and Route 4 of Cherriots which connects to the Downtown Transit Center and to Lancaster Drive. It doesn't appear any additional public transportation facilities are needed to adequately serve the proposed development. Royal Oaks Park is located just north of the property and includes picnic tables, a playground, and a basketball court.*

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

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

**Applicant's Findings:** The existing street transportation system in the vicinity of the subject property establishes a framework of arterials that provide both east/west and north/south access across the area which allows for short trips within the neighborhood to be made by a variety of routes, with or without driving.

**Policy E.10** Requests for rezonings to higher density residential uses to meet identified housing needs will be deemed appropriate provided:

- a. The site is so designated on the comprehensive plan map;
- 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.

**Applicant's Findings:** The applicant's proposal includes a request for a quasi-judicial zone change from UD (Urban Development) to the higher density RL (Light Multiple Family Residential) zone. The RL zone implements the "Multi-Family Residential" Comprehensive Plan Map designation proposed as part of the consolidated application. As described in findings above, the subject property is able to be served by public utilities. The water, sewer, and storm infrastructure area available within surrounding streets/areas and appear to be adequate to serve the proposed development. The property is unencumbered by sensitive areas such as wetlands or riparian areas. The existing street network on properties in the vicinity meet the circulation requirements of Residential Development Policy 7.

The applicable Statewide Planning Goals are addressed as follows:

Statewide Planning Goal 1 – Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

**Applicant's Findings:** A public hearing is required for the consolidated application. Notice of the public hearing will be provided by the Zoning Administrator to all property owners and tenants within 250 feet of the subject property. Any interested citizen may attend, testify, and submit evidence to the record for consideration by the Hearing's Officer or County Commissioners. This satisfies Citizen Involvement described in Goal 1.

Statewide Planning Goal 2 – Land Use Planning: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

**Applicant's Findings:** Both Marion County and the City of Salem have complied with the Goal requirements for establishing and maintaining a land use planning process. The Oregon Land Conservation and Development Commission have acknowledged the Salem Area Comprehensive Plan to be in compliance with the Statewide Planning Goals.

Statewide Planning Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources: To protect natural resources and conserve scenic and historic areas and open spaces.

***Applicant's Findings:*** The subject property does not contain any protected natural resources or scenic and historic areas; this Statewide Planning Goal is not applicable.

***Statewide Planning Goal 6– Air, Water, and Land Resources Quality:*** To maintain and improve the quality of the air, water and land resources of the state.

***Applicant's Findings:*** Land located within the Urban Growth Boundary is considered able to be urbanized and is intended to be developed to meet the needs of the City, and the effects of urban development on air, water and land resources are anticipated. Development of the property may be subject to tree preservation, stormwater and wastewater requirements as required by the City of Salem and Marion County Public Works which are intended to minimize the impact of development on the state's natural resources. The proposal is consistent with Goal 6.

***Statewide Planning Goal 7 – Areas Subject to Natural Hazards:*** To protect people and property from natural hazards.

***Applicant's Findings:*** The subject property is not located within a floodplain or floodway. Mapped landslide hazards are not identified on subject property. The proposal is consistent with Goal 7.

***Statewide Planning Goal 8 – Recreational Needs:*** To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

***Applicant's Findings:*** The subject property is not within an identified open space, natural or recreation area, and no destination resort is planned for this property, therefore, Goal 8 is not applicable to this proposal.

***Statewide Planning Goal 9 – Economic Development:*** To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

***Applicant's Findings:*** In 2014, the City conducted a study called the Salem Economic Opportunities Analysis (EOA). The EOA examined Salem's needs for industrial and commercial land through 2035 and concluded that Salem has a projected commercial land shortage of 271 acres and a surplus of approximately 907 acres of industrial land. The EOA provides strategies to meet the projected employment land needs in the Salem area. In 2015, the City Council adopted the EOA and updated the Comprehensive Plan accordingly. The City now uses the EOA and its findings to inform policy decisions, including how to respond to request for rezoning land.

***Statewide Planning Goal 10 – Housing:*** To provide for the housing needs of the citizens of the state.

***Applicant's Findings:*** In 2014, the City conducted a Housing Needs Analysis (HNA) to develop strategies for the community to meet housing needs through 2035 and to inform policy decisions related to residential land. According to the Housing Needs Analysis (HNA), "Salem has a deficit of capacity in the MF designation, with a deficit of 2,897 dwelling units and a deficit of 207 gross acres of residential land." With a Multiple Family Residential designation, the subject property could be developed as limited multi-family dwellings (a duplex); the rezone helps maximize the

density while helping to meet housing needs within the Salem Urban Growth Boundary. The proposed .18-acres could provide 2 dwelling units based on the development standards of the RL zone. The increase in density will reduce the deficit of identified in the HNA.

The proposal will help provide diverse housing options to meet the future needs of the City. The proposed RL zoning designation allows for a greater variety of residential uses than the current zoning does, including single family and two family residential. The proposed change in designation is in compliance with Goal 10 by providing a designation that allows more diverse housing options than the current zoning to contribute towards the future housing needs of the City.

Statewide Planning Goal 11 – Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

**Applicant's Findings:** The water, sewer, and storm infrastructure area available within surrounding streets/areas and appear to be adequate to serve the proposed development. Site-specific infrastructure requirements should be addressed the detailed development review which is required to approve the future multiple family development.

Statewide Planning Goal 12 – Transportation: To provide and encourage a safe, convenient and economic transportation system.

**Applicant's Findings:** 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 effect" 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 proposed Comprehensive Plan Change and Zone Change and future duplex development will not have a significant effect on the transportation system. The proposal complies with Goal 12.

Statewide Planning Goal 14 – Urbanization: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

**Applicant's Findings:** The subject property is located within the Urban Growth Boundary (UGB), and public facilities required to serve future development of the property are in close proximity.

*The proposed comprehensive plan map amendment will allow the efficient use of land within the UGB in compliance with Goal 14.*

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.

**Applicant's Findings:** *The City has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of land available for multifamily residential development. The proposal would convert approximately .18-acres of land away from a single-family residential designation to a multiple family residential designation, where the HNA identifies a deficit.*

*According to the Housing Needs Analysis (HNA), "Salem has a deficit of capacity in the MF designation, with a deficit of 2,897 dwelling units and a deficit of 207 gross acres of residential land." With a Multiple Family Residential designation, the subject property could be developed with a duplex, providing two dwelling units; the rezone helps maximize the density while helping to meet housing needs within the Salem Urban Growth Boundary. The proposed .18-acres could provide 2 dwelling units based on the density allowances of the RL zone. The increase in density will reduce the deficit identified in the HNA.*

*The proposed change in designation would allow for development for multi-family which will help to meet the changing needs of the Salem urban area. The Limited Multiple Family Residential designation would be better than the single-family residential designation for the property due to the location which abuts limited multiple family developments and the direct access to a variety of services, employment opportunities, public transportation, and entertainment opportunities. Designating the property as multiple family is a benefit as the designation has an ability to buffer higher intensity uses from single family uses and has a contribution to the identified deficit of land designated multi-family.*

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

**Applicant's Findings:** *The proposed Comprehensive Plan Map amendment from Urban Development to Multifamily Residential is in the public interest and would be of general benefit because it would increase the number of housing units that can be provided on the subject property, consistent with the needs of the City. The proposed change in land use designation is consistent with the location and character of the property, with adjacent land use designations, and with the planned transportation facilities available to serve the property.*

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.

**Applicant's Findings:** *The property is located within the Suburban East Salem Water District and has access to City of Salem infrastructure. The water, sewer, and storm infrastructure area available within surrounding streets/areas and appear to be adequate to serve the proposed*



*development. Site-specific infrastructure requirements will be addressed thoroughly when the applicant submits for building permits for the proposed duplex.*

## Section 7: Conclusion

Based on the facts and findings presented by the applicant within this detailed written narrative, the applicant believes they have satisfied the burden of proof and demonstrated how the proposed Comprehensive Plan amendment and zone change request not only satisfies all applicable criteria but would also be a benefit to the community by providing a needed housing type within Salem's Urban Growth Boundary.

## Section 8: Exhibits

Exhibit A – Marion County Application Form

Exhibit B – Title Transfer Instrument

Exhibit C – Site Plan