

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of ) Case No. ZC 25-003  
)  
LUCKYJUN, LLC ) **ZONE CHANGE**

**ORDER**

**I. Nature of the Application**

This matter comes before the Marion County Hearings Officer on the Application of LuckyJun, LLC to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S; R2W; Section 30CC; Tax lot 100).

**II. Relevant Criteria**

The standards and criteria relevant to this application are found in the Marion County Code, especially Chapter 16.06 (Commercial Retail Zone) and Chapter 16.39 (Zone Change), the Salem Comprehensive Plan Goals, Economic Development and Employment Policies, Land Use and Urbanization Goals and Policies, and the State of Oregon Planning Goals.

**III. Public Hearing**

A public hearing was held on this matter on August 7, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

- |    |               |                                  |
|----|---------------|----------------------------------|
| 1. | Austin Barnes | Marion County Planning Division  |
| 2. | Junyao Cen    | Applicant                        |
| 3. | Jimmy Cen     | Applicant's Representative (son) |

No objections were raised as to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing.

**IV. Executive Summary**

Applicant seeks to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem. Approval of the application will eliminate the dual-zoning condition, which is inefficient to expand commercial use in a commercially developed area. Applicant has met the burden of establishing compliance with the applicable standards and criteria to change the zone from RM to CR, and the hearings officer **GRANTS** the application, subject to conditions of approval.

## VI. Findings of Fact

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

1. Junyao Cen, on property owned by LuckyJunLLC, proposes to change the zone from RM (Multiple-Family Residential) to CR (Commercial Retail) on a portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S, R2W, Section 30CC, Tax lot 100).

The other portion of the property is already zoned CR and this would make the entire property zoned CR. The subject property is within the Salem Urban Growth Boundary (UGB) and designated Commercial in the Salem Area Comprehensive Plan (SACP). The property's current split RM and CR zoning is under the jurisdiction of Marion County. Applicant proposes to construct a mixed-use building used for both commercial and residential purposes the property, assuming approval of this zone change.

2. The property is located directly west of Lancaster Dr NE, directly northwest of its intersection with Hudson Ave NE. The parcel is generally flat and contains one commercial structure on it. The entire property is paved, while the area surrounding the structure is landscaped with some vegetation.
3. Adjacent properties to the north, south, and east are zoned CR (Commercial Retail) and are mostly in commercial use. The exception to this is one undeveloped parcel directly south, which is zoned RM. Properties to the west and southwest are zoned RM (Multiple-Family Residential) and appear to have a mix of multi-family and single-family residences.
4. Marion County Planning Division requested comments from other agencies:

Marion County Land Development Engineering and Permits (LDEP) commented:

### ENGINEERING ADVISORIES

A. The following are PW Engineering anticipated items for future site buildout:

- Dedicate 48-foot right-of-way half-width along Lancaster Dr
- Dedicate a 30-foot right-of-way half-width along Hudson Ave
- Reconstruct and narrow Lancaster Dr driveway to meet county width and ADA standards
- Consolidate Hudson Ave accesses into one reconstructed ADA-compliant west approach
- Design and construct up to two directional ADA ped corner ramps to replace existing single non-compliant ramp at intersection
- Remove encroaching sidewalk vegetation west end Hudson Ave
- Design, permit and construct stormwater collection, conveyance, detention and water quality treatment system

- Remove concrete pad(s) from expanded public R/W

Marion County Building commented: “Permit(s) are required to be obtained prior to the development of structures and utilities installation on private property. Construction documents are highly recommended to be prepared by an Oregon licensed design professional (architect or engineer) to show the proposed development will meet current building codes requirements.”

All other agencies either failed to comment or stated no comment on the proposal.

5. Austin Barnes, Marion County Planning, testified that all applicable criteria were addressed with respect to the zone change. Mr. Barnes indicated that there is a clarification from the staff report. The application and staff report did not specifically address a housing analysis or make any findings with respect to housing goals because the application seeks to change the zone from RM to Commercial. The Fair Housing Council indicated that the property was not previously included in the housing inventory. Mr. Barnes testified that since the Applicant seeks to include housing in the proposal, the proposal only adds to the housing inventory, which satisfies Goal 10.
6. Jimmy Cen testified at the hearing. Mr. Cen testified that the parcel is currently divided between CR and RM zoning. Mr. Cen indicated that the split zoning renders the property inefficient to expand the commercial use is a primarily commercial area. The change in zoning would allow additional building on the site, and meets applicable code and criteria.

## **VII. Additional Findings of Fact and Conclusion of Law**

1. Applicants have the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(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).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met.

2. Pursuant to MCC 16.36.070, applications shall include the signature of all owners of the subject property. The application was signed by Junyao Cen. A Statutory Special Warranty Deed, recorded at Reel 4612, Page 232, evidences that LuckyJun, LLC is the owner of the subject

property. The Oregon Secretary of State Corporation Division website evidences that LuckyJun, LLC is an active Oregon limited liability company, and its member is Junyao Cen.

3. Pursuant to MCC 16.39.010, the hearings officer is authorized to make the initial decision on zone change applications.
4. Pursuant to MCC 16.39.040, a hearings officer's decision to approve a zone change does not become final until the Board of Commissioners adopts an ordinance implementing the decision.
5. 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.
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.*

The subject property is currently a split zone, with a portion of the parcel being zoned Commercial Retail and the remainder being Multiple-Family Residential. Applicant proposes to change the section of the parcel zoned RM to Commercial Retail. This change would be in alignment with the underlying Comprehensive Plan (Commercial). Approval of the application to allow the zone change would also resolve the existing issue of having an incompatible Zone and Comprehensive Plan combination, as the RM zone does not implement the Commercial Comprehensive Plan designation. The criterion is 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 located directly off Lancaster Dr NE, which is within the Cherriots Public Transit Corridor Overlay. The property has available water and sewer services. Applicant also states that, should any additional utilities and traffic needs be required, they will be addressed during the development process and coordinated with the appropriate public agencies. The criterion is met.

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

The purpose statement for the CR zone is "to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial

accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.”

Applicant intends to place a mixed-use building on the western portion of the property. This building will consist of a commercial space with dwelling units on the second floor. Per MCC 16.06.010(A)(1) Dwelling units in conjunction with a commercial use are allowed outright as a permitted use, and are therefore, by default, consistent with the CR zone’s proposed statement. The criterion 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.*

Commercial Retail is the least intensive zone that both fits the Commercial plan designation and that allows for dwelling units in conjunction with a commercial use as an outright permitted use. Commercial Retail is also the zoning of the majority of surrounding properties off Lancaster. The proposal of dwelling units also aligns with the neighboring properties to the west off Hudson Avenue NE, as these properties are zoned for and contain dwellings. Therefore, the proposed zone change will not have any significant adverse effects on adjacent properties, as a zone change to Commercial Retail would match the current zoning of most neighboring properties. The criterion is met.

7. The existing Plan designation in the Salem Area Comprehensive Plan (SACP) is Commercial, and this Plan designation provides for the application of the CR zone proposed by the applicant. Policies applicable to the proposal are:

***E 1 Economic Development Goal:*** *Strengthen and diversify the economy to enhance Salem’s economic prosperity and resiliency. (SUA)*

The proposed zone change meets many of the policies within this section; as the Commercial Retail zoning allows for multiple commercial uses beneficial to economic growth. The criterion is met.

***E 2 Land Supply Goal:*** *Maintain an adequate supply of land to meet Salem’s economic and employment needs. (SUA)*

***E 2.1 Employment land:*** *The City shall provide a supply of employment land that accommodates the amounts, size, types, locations, and service levels needed to meet the short-term and long-term employment growth forecasts for the Salem Urban Area. (SUA)*

The Salem Comprehensive Plan designates the subject parcel as Commercial. The proposed zone change would bring the RM portion of the parcel into conformity with the long-term growth forecast for Salem. The mixed-use development provides a zone appropriate service to the surrounding area and aids in residential, economic, and employment goals. The criterion is met.

***E 3 Access and Livability Goal: Promote a vibrant economy that increases access to jobs, goods, and services.***

***E 3.2 Transit-oriented development: Pedestrian-friendly, mixed-use development and redevelopment should be encouraged along corridors with frequent transit access and near Cherriots' Core Network to increase access to jobs and services, reduce the need for single-occupancy vehicle trips, and support public transit.***

Lancaster Dr NE is classified as a Major Arterial Road and is a main service branch and key focus area for Cherriots bus routes. There are frequent services along the said transit corridor, and therefore has convenient access to jobs, goods, and services. Furthermore, the goal seeks to encourage mixed-use development is met with the applicant's proposal. The criterion is met.

***L 1 Urbanization and Growth Management Goal: Manage growth in the Salem Urban Area through cooperative efforts between the City of Salem, Marion and Polk counties, and other jurisdictions to provide area residents with a high quality of life, contain urban development, promote the City's efficient delivery of services, and preserve adjacent agricultural lands. (SUA)***

***L 1.10 Infill: Development of vacant and underutilized land with existing urban services should be encouraged before converting urbanizable lands to urban uses and extending services beyond presently served areas.***

The subject property is within the Salem Urban Area, is surrounded by development, and the western portion of the property (which is the focus of this zone change application) is vacant but has immediate access to services. Approval of the zone change would promote potential development of underutilized land within the existing urban services area. The criterion is met.

8. Based on the findings and analysis under the Marion County Code and the Salem Area Comprehensive Plan (SACP), the proposed zone change from RM to CR is appropriate for the underlying commercial designation and is consistent with the applicable policies of the relevant goals as outlined by SACP.

Therefore, the proposed zone change meets the criteria in MCC 16.39.050(A).

9. The subject parcel is in an area with existing infrastructure, including water and sewer services. The parcel is located on Lancaster Dr SE, a well-developed five lane road classified as a major arterial. Both northbound and southbound transit service stops are located within 1/5<sup>th</sup> of a mile

of the subject parcel along Lancaster Dr NE. These stops are run by Cherriots bus service every 15 minutes on weekdays.

Therefore, the criterion of MCC 16.39.050(B) is met.

10. The CR (Commercial Retail) zone purpose statement listed under MCC 16.06.000 states:

*The purpose of the CR (commercial retail) zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.*

The proposed CR zone is appropriate for the underlying SACP designation of Commercial. Applicant anticipates developing mixed-use commercial infrastructure that has access from a major arterial road. Therefore, MCC 16.39.050 (C) is met.

11. The proposed CR zone would allow the zone and comprehensive plan designation to come into alignment, as the existing RM zone is incompatible with the underlying Commercial designation. The proposed CR zone would not cause any adverse effects on adjacent properties as the majority are also zoned CR and therefore the subject property being made wholly CR would not cause it to be zoned for a more intensive use than neighboring parcels. Therefore, MCC 16.30.050 (D) is met.

12. Relevant Oregon Statewide Planning Goals are considered:

Goal 2 – Land Use Planning

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The process for evaluating the proposed zone change is outlined in MCC 16.39. This process implements policy framework of both Marion County Code and consideration of the underlying City of Salem Comprehensive Plan Goals. The process also allows the opportunity for public comment and requires review by a hearings officer. Therefore, the planning process is consistent with Goal 2.

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.*

The proposed Commercial zoning allows for a variety of commercial uses, creating opportunities for small businesses and local economic growth. Rezoning this section of the parcel would allow

for infill development and contribute to the community's economic vitality. Therefore, this is consistent with Goal 9.

#### Goal 10 – Housing

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

The property is zoned RM This zone change would allow the property to be developed as commercial with mixed use to include housing. The property was not previously counted as inventory, however, because the applicant proposes to include housing, the zone change adds to the housing inventory, which implements the underlying plan designation. Therefore, the proposal is consistent with Goal 10.

#### Goal 12 – Transportation

*To provide and encourage a safe, convenient and economic transportation system.*

The subject parcel of the proposed zone change is next to the major arterial road Lancaster Dr SE. The Cherriots service corridor that runs the length of Lancaster, Route 11, runs every 15 minutes on weekdays. Lancaster Dr SE is a five-lane road and can easily accommodate the increased traffic which may result from the potential infill development made possible by the proposed zone change. Therefore, the proposed zone change is compatible with Goal 12.

#### 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.*

The subject parcel is within the Salem Urban Growth Boundary and designated Commercial in the Salem Area Comprehensive Plan. The proposed zone change to Commercial Retail is consistent with Salem's Comprehensive Plan designation and would bring the property into compliance with Salem's long term urbanization goals, which in turn ensures the efficient use of the land. Therefore, the proposed zone change is compatible with Goal 14.

13. Marion County Planning Staff recommended approval of the proposal from RM to CR, with the application of the following conditions of approval:
  - A. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
  - B. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.



14. The proposed condition of approval (requiring all development on the property must satisfy specific development standards in the CR zone) requires clarification because there is a conflict with respect to density allowances between the CR and RM zones. The conflict is that the CR zone expressly allows “dwelling units” tied to a commercial use, but MCC 16.200.050(E) would cap other zones (which includes CR) at one dwelling per lot when dwellings are allowed. Staff indicates that the number of dwellings could not exceed that which is allowed in the RM zone. MCC 16.27.050(E) can be interpreted as applying to stand-alone residential projects in “other zones” and not mixed use in the CR zone. Staff indicates a maximum of six (6) dwelling units as a restriction on density. However, Applicant indicates that substantially fewer units are intended based upon the available property and restrictions of other applicable standards.

## **VII. Decision**

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change from RM to CR have been met. Therefore, the Hearings Officer **GRANTS** the zone change application, subject to the conditions set forth below. The conditions 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. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.
- C. The Applicant is limited to the development of up to 6 dwelling units.

## **VIII. Referral of Decision**

This document is a referral to the Marion County Board of Commissioners. A hearings officer’s decision to approve a zone change does not become final until the Board adopts an ordinance implementing the decision. Any aggrieved or affected person may file with the Marion County Clerk (555 Court Street NE, Salem, Oregon), a written request for a public hearing before the Board within fifteen (15) days of the date of mailing of this decision. The request must be accompanied by and will not be accepted without payment of a \$500.00 fee. If the Board denies the appeal, \$300 of the fee will be refunded. The Board has discretion whether to hold a public hearing. After fifteen (15) days, the Board may take final action on this application without conducting another public hearing.

DATED this 20<sup>th</sup> day of August, 2025.

  
Jill F. Foster  
Marion County Hearings Officer

## **CERTIFICATE OF MAILING**

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

Junyao Cen  
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Salem, OR 97301

Jimmy Cen  
193 Lancaster Dr. NE  
Salem, OR 97301

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Area Advisory: Committee #  
NA

Roger Kaye  
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1000 Friends of Oregon  
340 SE 6<sup>th</sup> Street  
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### **County Agencies Notified:**

Assessor's Office (via email)  
assessor@co.marion.or.us

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**Special Agencies Notified:**

NA

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 20th day of August, 2025 and that the postage thereon was prepaid.

  
\_\_\_\_\_  
Administrative Assistant to the  
Hearings Officer