

County Commissioners

Kevin Cameron, Chair
Danielle Bethell
Colm Willis



Director
Brian Nicholas, PE

Deputy Director
Dennis Mansfield

Chief Administrative Officer

Jan Fritz

MARION COUNTY PUBLIC WORKS

MEMORANDUM

TO: Marion County Hearings Officer
FROM: Marion County Planning Division
DATE: February 28, 2024
SUBJECT: Zone Change 23-004

The Marion County Planning Division has reviewed the above-referenced application and offers the following comments.

FACTS:

1. DKG Holdings LLC, proposes to change the zone from CR (Commercial Retail) to CO (Commercial Office) on two contiguous 0.43-acre parcels located in the 3000 block of State Street SE., Salem (T7S, R2W, Section 30CC, Tax lots 3400 & 5500). The subject properties are within the Salem Urban Growth Boundary (UGB) and designated Commercial in the Salem Area Comprehensive Plan (SACP). The properties' current CR zoning is under the jurisdiction of Marion County. The applicant has not finalized plans but proposes to continue to use, and in the future further develop, the properties with uses permitted in the CO zone.
2. The properties are located south of State Street SE, and North of La Branch Street SE, approximately 600 feet west of both streets' intersections with Lancaster Drive SE. The parcels are generally flat and currently contain multiple dwelling units. 3770 State Street SE has approximately 110-feet of frontage on State Street SE and contains two duplexes and a single family dwelling. 3745 La Branch Street SE has approximately 100-feet of frontage on La Branch Street SE and contains two single family dwellings. The northern edge of 3745 La Branch Street SE contains a city of Salem Sewer main that runs East-West underground across the property.
3. Adjacent properties to the West and South are zoned RM (Multifamily residential) and RS (single family residential). These parcels contain primarily single-family dwellings. Adjacent properties to the North and East are primarily zoned CR and are in commercial use, with the exception of a P (Public) zoned parcel east-adjacent to the 3754 La Branch Street SE property that houses the Suburban East Salem Water District.

COMMENTS:

4. Marion County Planning requested comments from various agencies, those that provided comments are:

The City of Salem Community Planning and Development Department commented: “The City of Salem, Development Services Division has no comments on the proposed zone change. For future development of the property, the applicant should be aware that the property is located within the Suburban East Salem Water District and the East Salem Sewer Service District. Any future connections to this sewer district will require an annexation agreement to be filed with the City of Salem, where one has not already been done so. As indicated on the applicant’s site plan, there is also a city of Salem Sewer main that runs through the property, new structures are not permitted over City of Salem utility mains. Dedication of easements for the main may be required at time of development.”

Marion County Building commented: “No Building Inspection concerns. Permits are required to be obtained prior to any development and/or utilities installation on private property.”

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

STAFF FINDINGS AND ANALYSIS:

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. The Co (Commercial Office) zone purpose statement listed under MCC 16.05.000 states:

The purpose of the CO (commercial office) zone is to provide areas suitable for professional and general commercial offices, membership organizations, similar low intensity, nonretail commercial services and medium density residential accommodations. The commercial office zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and as a transition between residential and more intensive commercial areas.

The proposed CO zone is appropriate for the underlying SACP designation of Commercial. The subject parcels are both have close to State Street SE and Lancaster Drive SE which are both major arterial streets. While the applicants do not provide plans for future development, expansion of the current residential use of both parcels by way of infill development would create an increase of traffic which could be accommodated by the current infrastructure. The parcels are both currently in use for multiple residential units in a transition zone between residential use to the west and more intensive commercial uses to the east which aligns with the transitional purpose of the proposed CO zone. Therefore, MCC 16.39.050 (C) is met.

7. 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 proposed zone is appropriate for the underlying comprehensive plan designation of Commercial. As shown below in section 8, staff explains how the proposal conforms to goals within the City of Salem Comprehensive plan. 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 frontage of these properties on State Street SE and La Branch Street SE are adequate for potential future development of residential units on this property, or commercial uses permitted in the CO zone. As shown in section 9 below, two large public transportation corridors exist to the north and east of the subject parcels. The criterion is met.

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

The current and historical use of these parcels is non-conforming under the current zone and would be conforming and consistent with the purpose of the proposed zone. Staff discusses this criterion more above in section 6. The criterion is met.

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

The proposed zone is the most restrictive of the Commercial zones, and therefore more appropriate as a transition zone between residential and commercial uses than the current Commercial Retail zone. The Commercial Office zone allows multi-family developments where other commercial zones do not. This could be seen as more intensive residential use than other zones that are appropriate for underlying designation of Commercial, but overall, the CO zone does not permit more intensive uses. The continued use of these parcels for residential purposes would not adversely affect the allowed uses on adjacent properties as most of those uses are residential in nature as well.

The proposed CO zone allows many of the same uses as the current CR zoning, with the addition of residential use. The current and historic use of the subject parcels is for multiple residential units. These are non-conforming within the current zoning but would be conforming under the proposed zoning as per 16.05.120(B). While the applicant does not provide redevelopment plans, the benefit of the zone change to the current use pattern is the conformity of the current residential unit use and permitting of redevelopment to increase density of residential units on the subject properties. This could be seen as more intense use than the west-adjacent RS zoned parcel, but is less so than the adjacent RM, CR, and P zoned parcels. The adjacent RS zoned parcel is already adjacent to an RM zoned parcel. The continued use of the subject parcels as multi-unit residential properties would not significantly adversely affect uses on any of the adjacent parcels. Therefore, MCC 16.30.050 (D) is met. The criterion is met.

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

H 1 Housing Choice Goal: Promote a variety of housing options to meet the needs, abilities, and preferences of all current and future residents. (SUA)

H 1.1 Housing types: A variety of housing types shall be allowed and encouraged throughout the Salem Urban Area, including single-family homes, accessory dwelling units, manufactured homes, townhouses, middle housing, and multifamily housing. (SUA)

H 1.2 Innovation: The development of new and innovative housing types and designs such as cottage clusters, cohousing, and multigenerational housing should be encouraged in the Salem Urban Area to diversify the housing stock and meet different housing needs.

H 1.4 Adaptability: Flexibility shall be provided in regulations to allow existing homes to convert to middle housing to adapt to changing housing needs in the future.

H 1.5 Housing diversity: New residential developments should be encouraged to incorporate a diversity of housing types and sizes to attract residents of varying income levels, lifestyles, and housing preferences.

The properties currently contain both multi-family and single-family dwellings, but they are non-conforming uses in the current CR zoning of the subject parcels. Under the current zoning, the dwelling units are not replaceable (MCC 16.48.100 & MCC 16.48.140(B)(2)). The proposed zone change would allow for future replacement of the current dwellings as well as the development of additional dwelling units. Multi-unit infill would be allowed as per MCC 16.05.120 at a rate of one dwelling unit per 1,500 square feet of net lot area (MCC 16.27.050(D)). Under CO zoning each of the subject parcels could be eligible for a maximum of 12 units each, where currently there are five units on tax lot 3400 and two units on tax lot 5500. The proposed zone would offer the opportunity for innovative, adaptable development of these parcels in line with their historic uses providing residential opportunities.

The proposed zone change would support these aspects of the H1 Housing Choice Goal.

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)

L1.10 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 parcels current use is non-conforming within the CR zone, and replacement of the existing non-conforming dwellings at their current density would not be permitted. The proposed zone change would render the current use conforming and, as per 16.05.120(B), sustainable infill development would be permitted under the proposed zone. Therefore, the proposed zone change would promote potential development of underutilized land within the existing urban services area. The location of the subject parcels has convenient access to jobs, services and amenities.

The parcels are within a mixed use neighborhood and create a transition zone between single/multi-family dwellings and commercial uses. The dwellings on these subject parcels are in a well-connected location on the State Street corridor which sees Cherriots service every 30

minutes on Route 4, and one block away the Lancaster corridor sees Cherriots service every 15 minutes on Route 11.

The proposed zone change therefore aligns with the L 1 Urbanization and Growth Management Goal.

L 2 Regional Coordination Goal: *Coordinate land use and public facility planning and investment decisions with Marion and Polk counties and the City of Keizer to promote equitable, efficient, and sustainable growth. (SUA)*

L 2.1 Plan and code coordination: *Zoning ordinances, subdivision regulations, Comprehensive Plan components, and specific development standards pertaining to the Salem urban area and prepared by the City of Salem, Marion County, Polk County, special districts and functional planning agencies shall support the Salem Area Comprehensive Plan.*

L 2.2 Land use coordination: *The City and Marion and Polk Counties shall maintain an exchange of information and recommendations relating to land use applications and activities in the urban growth area. Information on land division applications and other land use activities being considered within the urban growth boundary by the Counties shall be forwarded by Counties to the City of Salem for comments and recommendations prior to a decision being made by the Counties. (SUA)*

L 2.3 Development standards coordination: *The City shall coordinate with Marion and Polk Counties regarding lands within the Salem urban area to ensure their development standards are compatible with the City of Salem development standards to the extent possible to avoid creating nonconformities when properties are annexed. (SUA)*

L 2.4 Public facility coordination: *The City shall forward to Marion and Polk Counties for review and comment information on public facility improvements or extensions that are proposed for areas outside city limits. (SUA)*

L 2.5 CIP coordination: *An exchange of information shall be maintained between the City, Marion and Polk Counties, and the City of Keizer regarding proposed capital improvement programs to ensure coordination of construction projects. (SUA)*

The proposed zone change is within Marion County Planning jurisdiction of lands inside the Salem UGB. To ensure coordination and exchange of information, the City of Salem has been contacted in request for comments on this application. Those comments have been considered in this staff decision and are collected above in Section 4 of this staff report. Consideration of the proposed zone change relative Salem's underlying comprehensive plan designation of Commercial has been made and found compatible. Consideration of relevant goals (H 1, L 1, & L 2) of the City of Salem comprehensive plan have been considered here and above.

Based on the above findings, the proposed zone change from CR to CO is appropriate for the Commercial designation of these parcels under the SACP and is consistent with the applicable policies of the relevant goals of the SACP. Therefore, the proposed zone change can meet the criterion in MCC 16.39.050(A).

9. The subject parcels are in an area with existing infrastructure, including water and sewer services. The northern parcel is located on State Street, a well-developed five lane major arterial road with transit service stops approximately 800-feet to the West, and 800-feet to the East by Cherriots

every 30 minutes from 6:30AM to 11PM on weekdays. Therefore, the criterion MCC 16.39.050(B) is met.

10. Marion County Planning staff considered the relevant Oregon Planning Goals:

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 16.39.050 and addressed above in sections 7 through 10 of this staff report. This process implements policy frame work 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 – Land Use Planning.

Goal 12 – Transportation

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

The subject parcels of the proposed zone change are next to two major arterial roads, State St and Lancaster Dr SE. The State Street corridor sees Cherriots service every 30 minutes on Route 4, and one block away the Lancaster corridor sees Cherriots service every 15 minutes on Route 11. Both are four lane roads and could easily accommodate the increased traffic which may result from potential infill development made possible by the proposed zone change. Therefore, the proposed zone change is compatible with Goal 12 – Transportation.

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 parcels are within the Salem Urban Growth Boundary and designated Commercial in the Salem Area Comprehensive Plan. The proposed zone change to Commercial Office under Marion County is consistent with Salem’s Comprehensive Plan designation. The parcels are currently used to accommodate urban populations by providing residences. The proposed zone change would ensure the efficient use of the land if its current use is to continue and/or expand. Therefore, the proposed zone change is compatible with Goal 14 – Urbanization.

CONCLUSION:

11. Marion County Planning Staff recommends approval of the proposal. Should the Hearings Officer grant the applicant’s request for the change in zone from CR to CO, the Planning Division recommends the following conditions be applied:
 - A. The applicant shall obtain all permits required by the Marion County Building Inspection Division.

- B. The applicant shall meet the requirements of MCC 16.05.250 and MCC 16.05.100, which also includes MCC 16.30.220. These sections require landscaping, screening of outdoor storage areas, and appropriate exterior lighting for parking and storage areas that is directed away from adjacent residential properties.
- C. All current and future development on the property must satisfy the specific development standards in the CO zone (MCC 16.05.000) and the general development standards found in Chapters 16.26.00 through 16.40.00 of the MCC.