



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: August 10, 2022

Department: Public Works Agenda Planning Date: July 28, 2022 Time required: None

☐ Audio/Visual aids None

Contact: Lindsey King Phone: 503-566-4162

Department Head Signature: *for Brandon Reich*

TITLE

Receive notice of Hearings Officer's decision recommending denial for Zone change/Comprehensive Plan Amendment (ZC/CP) Case 22-001/Trung Diep (Chom) and Alyssa Teiu and schedule a public hearing.

Issue, Description & Background

The Marion County Hearings Officer issued a decision on July 7, 2022, denying ZC/CP22-001. As part of the land use process the Marion County Board of Commissioners must receive the recommendation, hold a public hearing on the matter and issue a decision. The proposed Hearing date is August 31, 2022.

Financial Impacts:

None

Impacts to Department & External Agencies

None

Options for Consideration:

1. Receive recommendation and schedule a public hearing for August 31, 2022.
2. Receive recommendation and schedule a public hearing for an alternate date.

Recommendation:

Staff recommends that the board receive notice of the hearings officer's recommendation and schedule the public hearing for August 31, 2022.

List of attachments:

Hearings Officer's recommendation
Staff recommendation

Presenter:

Lindsey King

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

Copies to:

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

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of:	)	Case No. CP/ZC 22-01
	)	
TRUNG DIEP (CHOM) and	)	COMPREHENSIVE PLAN
ALYSSA TIEU	)	DESIGNATION AND ZONE CHANGE

RECOMMENDATION

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the application of Trung Diep (Chom) and Alyssa Tieu to change the comprehensive plan destination from Multi-Family Residential to Single Family Residential and to change the zone from UD (Urban Development) to RS (Single Family Residential), on a 0.76-acre parcel located at 4694 Center Street NE, Salem (T7S; R2W; Section 29BB; tax lot 30001). The subject property is located within the Salem Urban Growth Boundary (UGB) and designated Multi-Family Residential in the Salem Area Comprehensive Plan (SACP). The property's current UD zoning is under the jurisdiction of Marion County.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Comprehensive Plan (MCCP), Salem Area Comprehensive Code, Marion County Code Chapter 16, particularly MCC 16.39 and MCC 16.43.

III. Public Hearing

A public hearing was held on this application on March 31, 2022. At the hearing, the Planning Division file was made a part of the record. The following persons appeared at the hearing and provided testimony or argument on the application:

- | | |
|--------------------|----------------------------|
| 1. Lindsey King | Planning Division |
| 2. Britany Randall | Applicant's Representative |
| 3. Craig Wigginton | Proponent |

No objections were made to notice jurisdiction, conflict of interest or evidence at hearing. The record was left open through May 31, 2022, and there were no additional submissions to the record.

IV. Executive Summary

The Applicants request to change the comprehensive plan destination from Multi-Family Residential to Single Family Residential and to change the zone from UD (Urban Development) to RS (Single Family Residential), on a 0.76-acre parcel located at 4694 Center Street NE, Salem, Oregon. The subject property is located within the Salem Urban Growth Boundary

(UGB) and designated Multi-Family Residential in the Salem Area Comprehensive Plan (SACP). The City of Salem has accepted a Housing Needs Analysis (HNA) which includes a Buildable Land Inventory identifying a surplus of single-family residential development, and a deficit of Multiple Family Residential units. The proposal is not consistent with the City of Salem's Comprehensive Plan designation. The change from single family within an area already zoned and developed with multifamily uses could affect future development of adjacent parcels zoned to more intensive uses. The hearings officer recommends DENIAL.

V. Findings of Fact

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

1. The application of Trung Diep (Chom) and Alyssa Tieu seeks to change the comprehensive plan designation from Multi-Family Residential to Single Family Residential and to change the zone from UD (Urban Development) to RS (Single Family Residential), on a 0.76 acre parcel located at 4694 Center St. NE, Salem (T7S; R2W; Section 29BB; tax lot 30001). The subject property is within the Salem Urban Growth Boundary (UGB) and designated Multi-Family Residential in the Salem Area Comprehensive Plan (SACP). The property's current UD zoning is under the jurisdiction of Marion County. The applicant is not proposing any additional development.
2. The property is located on the south side of Center Street NE, 0.70 miles east from its intersection with Lancaster Dr. NE; roughly 0.45 miles west of Cordon Rd NE. The parcel is generally flat and developed with a single-family home and accessory buildings. The parcel has direct access from to Center St. NE. The parcel was created in 1889 by subdivision Hampden Park and is therefore considered a legal parcel for land use purposes.
3. Abutting property to the west is zoned UD (Urban Development) and developed with a single family home, properties to the north are zoned RS (Single Family) within Salem City limits and developed with single family dwellings, property to the east and south are zoned RM2 (Residential Multifamily) within Salem City limits and are currently being developed with apartments.
4. The Marion County Planning Division requested comments from various governmental agencies and received the following comments:

Marion County Septic commented: "This property is in the UGB, which means they will likely need to connect to the sewer if it is within 300 feet. The application states they will be connecting to city services. In this case, no comment. If not the case they will need a site evaluation."

City of Salem, Planning Division commented that the division would not be supportive of the proposal making notes that the proposal is not consistent with the City of Salem's

Comprehensive Plan designation and that current and future development would render this parcel inconsistent with surrounding developments. See full comments in file.

City of Salem, Public Works commented: Future development of the property would require a water connection which would require annexation pursuant to Council Policy X-4.

Marion County Building Inspection commented: No Building Inspection issues. As mentioned in their application, permits are required for any future development on private property.

Salem Keizer Public Schools made comments that can be found in the file.

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

5. Representative for the Applicant, Britany Randall, Brand Land Use, stated that the Applicant seeks to maintain his recently improved single-family residence while exploring the opportunities for future development of the single-family housing. The site is located within the City of Salem's Urban Growth Boundary and is designated as "Multiple Family" in the Salem Area Comprehensive Plan (SACP). The proposal is to change the designation to "Single Family Residential."
6. Ms. Randall addressed that the City has a surplus for single-family land and a deficit for multifamily housing, and indicates that there is sufficient land to be added to multifamily housing in Salem land development planning. The removal of .76 acres of property will not have a significant impact in the deficit of multifamily zoned property when significant additional land will be zoned multifamily with the "Our Salem" project.
7. Craig Wigginton, who has experience in Salem real estate stated that if multifamily designation is not the best use of the property as a practical matter. Property designated as multifamily cannot be partitioned. With more houses, there will be an increased tax base.
8. Marion County Planner, Lindsey King, indicated that a partition could be completed if minimum lot size is met.

VI. Additional Findings of Fact and Conclusions of Law

1. Applicants have the burden of proving all applicable standards and criteria are met.
2. Applicants submitted a complete, signed application with the required forms and fees, and included evidence of ownership.
3. Applicants request a non-legislative Comprehensive Plan Amendment and a zone change for property located within Marion County.

4. 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."

MCC 16.43.020 Analysis

5. Under Marion County Code (MCC) 16.43.020 approval of a non-legislative plan amendment shall include findings that the change meets the following criteria:
 - A. *Conformance with the Comprehensive Plan goals, policies and intent, and any plan map amendment criteria in the plan, or intergovernmental planning coordination agreement, pertaining to unincorporated lands.*

The applicant proposes to change the Comprehensive Plan designation from Multi-Family Residential to Single-family Residential. The subject property is not within the city limits of Salem, but is within the Salem Urban Growth Boundary. The goals and policies of the Salem Area Comprehensive Plan (SACP) apply to the proposal, but the authority to decide land use policies lies with Marion County. 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. Changes in use designation to permit higher residential densities are governed by the goals and policies of the SACP and the local rezoning process. The intent of the residential designation is, in part, to provide for the systematic conversion of sites to more intensive residential uses in accord with development policies and standards: to ensure a compatible transition between various types of housing; to encourage locating residential development where full urban services, public facilities, and routes of public transportation are available; and to permit multifamily housing developments which are consistent with development standards and growth policies to blend into the overall fabric of the Salem urban area.

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

Salem Urban Area Goals and Policies, Residential Development Goal:

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.*

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. Despite the single-family designation surplus, multiple family development will soon be permitted in the City's single-family zones and SACP designations. The State of Oregon Legislature passed House Bill (HB) 2001 that is aimed at increasing the housing supply in Oregon. The City of Salem is implementing the provisions of HB 2001 that would increase the availability of land for multiple family development in the City's single-family zones permitted within the "Single Family Residential" Comprehensive Plan designation. In addition, the HNA identifies, as one of the recommendations, to increase the land available for multi-family housing types in single-family zones. The proposal would convert approximately .76 acres of land to single-family residential designation. Although multi-family housing types would still be allowed due HB 2001, the change to single family residential does not support the type and distribution of housing units to accommodate population growth within Salem's Urban Growth Boundary. The intent of the residential designation is, in part, to provide for the systematic conversion of sites to more intensive residential uses in accord with development policies and standards. This criterion is not met.

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

The land proposed for the Comprehensive Plan Map and Zone Change has capacity for Single Family Residential development, as it currently supports a single-family residence. 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. This criterion is met.

- 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.*

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 adequately serve the existing development. This criterion is met.

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

The 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. 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. This criterion is met.

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

The residential properties in the vicinity of the site are developed at a range of densities. The proposed Single Family Residential designation matches the properties to the north across Center Street NE. However, the two properties adjacent to the site are designated multiple family. Because the site is bordered by both single-family housing types and multi-family designations, this proposed designation could disrupt the pattern of development that focuses on multi-family designation. This criterion is not met.

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

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.*

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." Although the zone permitted in the Single-Family Comprehensive Plan Designation, RS (Single Family Residential) zone, does not have a minimum density standard (but rather a minimum lot area of 4,000 square feet for single-family lots and 7,000 square feet for two-family lots), the density goal of the HNA would be better served by multifamily designation.

Applicable Statewide Planning Goals:

The request is subject to the plan goals, policies, and intent of Statewide Planning Goals. 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.

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 into 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.

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.

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.

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.

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.

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.

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 requests for rezoning land. As the subject proposal is a request to rezone residential property, Goal 9 is not applicable to this proposal.

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

In 2015, the City of Salem 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. The Buildable Lands Inventory within the HNA identified a surplus of single-family residential development, and a deficit of Multiple Family Residential units. In addition, the HNA identified single-family detached housing as a needed housing type throughout the City's Housing Needs Analysis; 60% (i.e., 14,013 units) of the identified needed housing is still projected to be single-family.

Applicant states that despite the Single-Family designation surplus, multiple family development will soon be permitted in the City's single-family zones and SACP designations and that allowing potential development of multi-family units where the HNA indicates a deficit, while also allowing more single-family detached housing where the HNA identifies a need.

Applicant argues that the City of Salem is implementing the provisions of HB 2001 that would increase the availability of land for multiple family development in the City's single-family zones permitted within the "Single Family Residential" Comprehensive Plan designation. Upon its passage, the City's single-family zones (RA, RS and RD), permitted under the RS SACP designation will permit duplexes, triplexes, quadplexes and cottage clusters; all of these housing types being considered multiple family housing.

Although it is accurate that the implementation of HB 2001 will allow for multiple family housing, the Salem Housing Needs Analysis which is intended to comply with Goal 10 determine that there is a significant deficit of land for multifamily housing (207 acres and 2,876 units) in Salem's portion of the Urban Growth Boundary over the next 20 years. The HNA recommends lowering barriers to multifamily development

The proposed change in designation would provide for more middle-housing development. However, the proposed changes in the Salem proposed Comprehensive Plan Map aims to meet Salem's housing needs identified in the HNA, which is primarily through redesignating land to Multi-Family Residential, which increases the amount of land for multifamily housing. The proposal does not satisfy Goal 10.

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.

There is water, sewer, and storm infrastructure available within surrounding streets/areas that adequately serve the existing development. Site-specific infrastructure requirements will be addressed thoroughly if and when the applicant submits for approval of any additional development.

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

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 existing residence and proposed Comprehensive Plan Change and Zone Change would 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.

The subject property is located within the Urban Growth Boundary (UGB), and public facilities required to serve any 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.

The proposal acknowledges the goals and policies; however, the proposal is not consistent with the intent of the SACP designation and goals of future development. MCC 16.43.020 (A) has not been met.

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

The applicant states that according to the Salem 2015 Housing Needs Analysis (HNA), the city has a surplus of 1,975 acres for Single Family residential development and a deficit for multifamily residential development. The proposal would take approximately 0.76 acres of land away from multi-family residential and designate it to single-family zoning with one home. The proposal enlarges the existing surplus of single-family residential land. Goal 10 requires that cities have adequate land within their urban growth boundary for all types of housing. Because this proposal would reduce the amount of needed multi-family land and increases the existing surplus of single-family land, the criterion in MCC 16.43.020 (B) has not been met.

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

The applicant makes findings that the proposed zone change would allow for the existing single-family home to remain with the potential for future middle housing, through House Bill 2001 (HB 2001). HB 2001 however does not pertain to parcels within county jurisdiction; therefore, no middle housing would be permitted until such time as the parcel is annexed into the City of Salem. In fact, many of the middle housing types of homes can already be developed in the existing multi-family zone. Additionally, due to the multi-family housing deficit this proposal would adversely affect planned uses on the subject parcel and adjacent lands. In a memo from the City of Salem, staff they notes that the proposal would be inconsistent with the surrounding properties and the plans for future development.

Multi-Family developments (duplexes and higher density housing units) are often used to buffer Single Family development from roads and more intense uses such as commercial. Applicant describes how this proposed zone will allow for the single-family home to serve as a buffer to more intense uses. This is not the intent of the area and would adversely affect planned used on adjacent lands. The criterion in MCC 16.43.020 (C) has not been met.

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

The applicant has made findings that state the subject property is within the Suburban East Salem Water District and has access to City of Salem infrastructure. The water, sewer and storm facilities in the area appear to be adequate to support any future development. The criterion in MCC 16.43 .020 (D) is met.

MCC 16.39.050 Analysis

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

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

The applicant states that the parcel is currently developed with a single-family home and accessory structure(s). The applicant states that if the comprehensive plan and zone change are approved then the property owner intends to keep the parcel as is with the existing single-family home. No plans for redevelopment were mentioned or submitted. Residential Development policy 3 is not met.

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

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

The applicant states that the property is in an urbanized area of the city where services exist in the vicinity. The applicant provides evidence in applications

stating that public facilities and services, as well as transportation corridors to support that the development will be in compliance with this policy. Transit connections are provided to on Center Street, directly across from the subject property which provides access to employment centers, shopping areas, transit services, parks, and public buildings. Residential Development Policy 6 can be met.

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

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

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

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

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

Applicant provides findings that the existing street network promotes the use of all modes of transportation and being located next to major arterials and business centers will encourage trips to be taken by modes other than a car.

Notwithstanding the multi-modal nature of the surrounding area, trips taken by automobile will still be adequately served by the existing infrastructure. Residential Development Policy 9 can be met.

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

The subject property is in an area with existing infrastructure, including water, sewer, electric, and telecommunication services. As previously mentioned, the property is served by Cherrits transit service. MCC 16.39.0S0(B) is met.

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

The RS (Single-Family Residential) zone purpose statement listed under MCC 16.04.000 states:

The purpose of the RS (single-family residential) zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities. Other uses provided in MCC 16.02.010 and 16.02.020 are also appropriate. These areas are designated as single-family residential or equivalent designation in the applicable urban area comprehensive plan.

The subject property is located approximately 0.25 miles east of Lancaster Drive, a major arterial street and site-generated traffic can be easily accommodated. Moreover, the parcel is located adjacent to Multi-Family zoning on the east and south, and surrounded by Single Family zones to the north and to the west. Developing Residential with the SACP designation of Multi-Family.

According to the Applicants' statement, Applicants intend to keep the existing single-family development on the property with no intention of redevelopment. The density allowed in the RS zone is not compatible with the level of available services, including transportation. Additionally, is not consistent with the intent of the area. The evidence provided indicates that the property is better suited for multi-family zoning. The proposed RS (Single Family Residential) zone is not appropriate for the SACP Developing Residential designation. Therefore, MCC 16.39.050(C) is not met.

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

The proposal is to change the zoning designation of the property to RS (Single Family Residential). Surrounding properties are zoned and used as follows:

North: The properties to the north, across Center Street NE, are within the limits of the City of Salem. City of Salem's zoning map designates the properties to the north as RS (Single Family Residential) and are each developed with a single-family dwelling.

South: The property to the south is within the limits of the City of Salem. City of Salem's zoning map designates the property to the south as RM-II (Multiple Family Residential) and is currently vacant.

East: The property directly to the east is the same property as the one to the south; therefore, it is within the limits of the City of Salem, currently vacant, and designated as RM-II (Multiple Family Residential) on the City of Salem's zoning map. Properties further east, beyond this adjacent property, are zoned RS (Single Family Residential) and are developed with single-family dwellings.

West: The property to the west is under Marion County's jurisdiction. Marion County's zoning map designated the property to the west as UD (Urban Development) and is developed with a single-family dwelling.

The RS (Single Family Residential) zone allows the least intensive uses among the residential zones. However, as described above, this change to single family would be within an existing area already zoned and developed with multi-family uses. This zone change could affect future development or re-development of adjacent parcels zoned to more intensive uses. This criterion is not met.

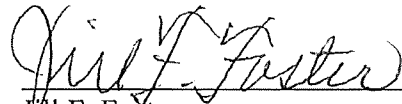
VII. Recommendation

It is hereby found that the Applicants have not met the burden of proving that the criteria for a comprehensive plan amendment and zone change. The hearings officer recommends **DENIAL** of the proposal.

VIII. Referral

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

DATED at Salem, Oregon this 28 day of June, 2022.


Jill F. Foster
Marion County Hearings Officer

CERTIFICATE OF MAILING

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

Britany Randall
12150 Jefferson Hwy 99E SE
Jefferson, OR 97352

Craig Wigginton
261 Friendship Ave. SE
Salem, OR 97302

Chom Diep
4694 Center St. NE
Salem, OR. 97301

Agencies Notified:

Dept. Of Aviation

(Via email: Heather.Peck@aviation.state.or.us)

Area Advisory Committee D

(Via email: dg.boardstuff@gmail.com)

Friends of Marion County

(Via email: rkaye2@gmail.com)

Assessor

(Via email: Assessor@co.marion.or.us)

Surveyors' office

(Via email: survey@co.marion.or.us)

Fire district MCFD #1

(Via email: PaulaS@mcfcd1.com)

School district Salem-Keizer

(Via email: fridenmaker_david@salkeiz.k12.or.us)

Building Inspection Septic

(Via email: abammes@co.marion.or.us)

Planning Division

(Via email: breich@co.marion.or.us)

(Via email: lking@co.marion.or.us)

Code Enforcement

(Via email: cgoffin@co.marion.or.us)

(Via email: jtaylor@co.marion.or.us)

Building Inspection

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

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

PW Engineering

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

PW LDEP

(Via email: mcldep@co.marion.or.us)

DLCD

(Via email: hilary.foote@state.or.us)

(Via email: sarah.marvin@state.or.us)

(Via email: angela.carnahan@state.or.us)

(Via email: pwingard@dled.state.or.us)

Cities-Salem

(Via email: apanko@cityofsalem.net)

(Via email: developmentservices@cityofsalem.net)

(Via email: Planning@cityofsalem.net)

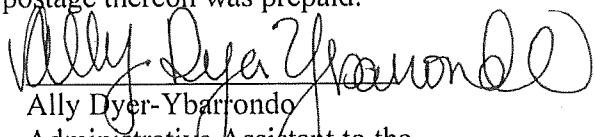
(Via email: withams@keizer.org)

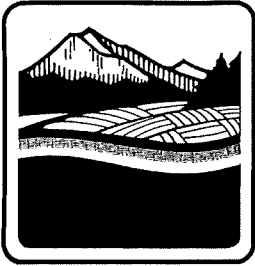
East Salem Service Dist.

(Via email: mknudsen@co.marion.or.us)

(Via email: srosentrater@co.marion.or.us)

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 28 day of June, 2022 and that the postage thereon was prepaid.


Ally Dyer-Ybarrondo
Administrative Assistant to the
Hearings Officer



Marion County OREGON

PUBLIC WORKS

MEMORANDUM

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SURVEY

TO: Marion County Hearings Officer

FROM: Marion County Planning Division/Lindsey King

SUBJECT: Comprehensive Plan/Zone Change 22-001

DATE: March 17, 2022

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

FACTS:

1. Application of Trung Diep (Chom) and Alyssa Tieu to change the comprehensive plan designation from Multi-Family Residential to Single Family Residential and to change the zone from UD (Urban Development) to RS (Single Family Residential), on a 0.76-acre parcel located at 4694 Center St. NE, Salem (T7S; R2W; Section 29BB; tax lot 30001). The subject property is within the Salem Urban Growth Boundary (UGB) and designated Multi-Family Residential in the Salem Area Comprehensive Plan (SACP). The property's current UD zoning is under the jurisdiction of Marion County. The applicant is not proposing any additional development.

2. The property is located on the south side of Center Street NE, 0.70 miles east from its intersection with Landcaster Dr. NE; roughly 0.45 miles west of Cordon Rd NE. The parcel is generally flat and developed with a single-family home and accessory buildings. The parcel has direct access from to Center St. NE. The parcel was created in 1889 by subdivision Hampden Park and is therefore considered a legal parcel for land use purposes.

3. Abutting property to the west is zoned UD (Urban Development) and developed with a single-family home, properties to the north are zoned RS (Single Family) within Salem City limits and developed with single family dwellings, property to the east and south are zoned RM2 (Residential Multifamily) within Salem City limits and are currently being developed with apartments.

COMMENTS:

4. Marion County Septic commented: "This property is in the UGB, which means they will likely need to connect to the sewer if it is within 300 feet. The application states they will be connecting to city services. In this case, no comment. If not, the case they will need a site evaluation."

City of Salem, Planning Division commented that the division would not be supportive of the proposal making notes that the proposal is not consistent with the City of Salems Comprehensive plan designation and that current and future development would render this parcel inconsistent with surrounding developments. See full comments in file.

City of Salem, Public Works commented: Future development of the property would require a water connection which would require annexation pursuant to Council Policy X-4.

Marion County Building Inspection commented: No Building Inspection issues. As mentioned in their application, permits are required for any future development on private property.

Salem Keizer Public Schools made comments that can be found in the file.

Other contacted agencies either had no comment or stated no objection to 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. Under Marion County Code (MCC) 16.43.020 approval of a non-legislative plan amendment shall include findings that the change meets the following criteria:
 - A. *Conformance with the Comprehensive Plan goals, policies and intent, and any plan map amendment criteria in the plan, or intergovernmental planning coordination agreement, pertaining to unincorporated lands.*

The applicant proposes to change the Comprehensive Plan designation from Multi-Family Residential to Single-family Residential. The subject property is not within the city limits of Salem, but is within the Salem Urban Growth Boundary. The goals and policies of the Salem Area Comprehensive Plan (SACP) apply to the proposal, but the authority to decide land use policies lies with Marion County. The proposal acknowledges the goal and policies; however, the proposal is not consistent with the intent of the SACP designation and goals of future development. MCC 16.43.020 (A) has not been met.

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

The applicant states that according to the Salem 2015 Housing Needs Analysis (HNA), the city has a surplus of 1,975 acres for Single Family residential development and a deficit for multifamily residential development. The proposal would take approximately 0.76 acres of land away from multi-family residential and designate it to single-family zoning with one home. The proposal enlarges the existing surplus of single-family residential land. Goal 10 requires that cities have adequate land within their urban growth boundary for all types of housing. Because this proposal would reduce the amount of needed multi-family land and increases the existing surplus of single-family land, the criterion in MCC 16.43.020 (B) has not been met.

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

The applicant makes findings that the proposed zone change would allow for the existing single-family home to remain with the potential for future middle housing, through House Bill 2001 (HB 2001). HB 2001 however does not pertain to parcels within county jurisdiction; therefore, no middle housing would be permitted until such time as the parcel is annexed into the City of Salem. In fact, many of the middle housing types of homes can already be developed in the existing multi-family zone.

Additionally, due to the multi-family housing deficit this proposal would adversely affect planned uses on the subject parcel and adjacent lands. In a memo from the City of Salem, staff they note that the proposal would be inconsistent with the surrounding properties and the plans for future development.

Multi-Family developments (duplexes and higher density housing units) are often used to buffer Single-Family development from roads and more intense uses such as commercial. Applicant describes how this proposed zone will allow for the single-family home to serve as a buffer to more intense uses. This is not the intent of the area and would adversely affect planned used on adjacent lands. The criterion in MCC 16.43.020 (C) has not been met.

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

The applicant has made findings that state the subject property is within the Suburban East Salem Water District and has access to City of Salem infrastructure. The water, sewer and storm facilities in the area appear to be adequate to support any future development. The criterion in MCC 16.43.020 (D) 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 existing Plan designation in the Salem Area Comprehensive Plan (SACP) is Developing Residential, and the proposed designation is Single-Family Residential. Policies applicable to the proposal are:

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

The applicant states that the parcel is currently developed with a single-family home and accessory structure(s). The applicant states that if the comprehensive plan and zone change are approved then the property owner intends to keep the parcel as is with the existing single-family home. No plans for redevelopment were mentioned or submitted. Residential Development policy 3 is not met.

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

- a. To encourage efficient use of residential land and public facilities, development regulations shall require minimum densities for multiple family development zones.*
- b. Development regulations shall promote a range of densities that encourage a variety of housing types;*

- c. *Multiple family developments shall be located in areas that provide walking, auto, or transit connections to:*
- (1) Employment centers;*
 - (2) Shopping areas;*
 - (3) Transit services;*
 - (4) Parks;*
 - (5) Public Buildings*

The applicant states that the property is in an urbanized area of the city where services exist in the vicinity. The applicant provides evidence in applications stating that public facilities and services, as well as transportation corridors to support that the development will be in compliance with this policy. Transit connections are provided to on Center Street, directly across from the subject property which provides access to employment centers, shopping areas, transit services, parks, and public buildings. Residential Development Policy 6 can be met.

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

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

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

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

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

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

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

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

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

The RS (Single-Family Residential) zone purpose statement listed under MCC 16.04.000 states:

The purpose of the RS (single-family residential) zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities. Other uses provided in MCC 16.02.010 and 16.02.020 are also appropriate. These areas are designated as single-family residential or equivalent designation in the applicable urban area comprehensive plan.

The subject property is located approximately 0.25 miles east of Lancaster Drive, a major arterial street and site-generated traffic can be easily accommodated. Moreover, the parcel is located adjacent to Multi-Family zoning on the east and south and surrounded by Single Family zones to the north and to the west Developing Residential with the SACP designation of Multi-Family. According to the applicant statement the applicant intends to keep the existing single-family development on the property with no intention of redevelopment. The density allowed in the RS zone is not compatible with the level of available services, including transportation. Additionally, is not consistent with the intent of the area. By the evidence provided it appears that the property is better suited for multi-Family zoning. The proposed RS (Single Family) zone is not appropriate for the SACP Developing Residential designation. Therefore, MCC 16.39.050(C) is not met.

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

The RS (single Family) zone does allow the least intensive uses among the residential zones. However as described above, this change to single family would be within an existing area already zoned and developed with multi-family uses. This zone change could affect future development or re-development of adjacent parcels zoned to more intensive uses. This criterion is not met.

CONCLUSION:

8. Staff recommends denial of the proposal. Should the hearings officer grant the applicant's request for the change in zone from UD to RS, 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 development requirements of the RS zone, see 16.03.100 through 16.03.250.