



Marion County
OREGON

**ZONE CHANGE/COMPREHENSIVE
PLAN CHANGE APPLICATION
RECEIVED**

SEP 07 2021

Marion County
Planning

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

Fee: Please check the appropriate box:

- Zone Change - \$1880+\$30/acre
- Comprehensive Plan Change - \$3755+\$60/acre
- Zone Change/Comprehensive Plan Change - \$3755+\$60/acre
- Mineral Aggregate Site - \$5300 base fee +
 - \$25/acre – 0-100 acres
 - \$75/acre – 101-200 acres
 - \$100/acre – 201-399 acres
 - \$150/acre – 400+ acres

PROPERTY OWNER(S): Dale Alan Roberts	ADDRESS, CITY, STATE, AND ZIP: 4095 MacLeay Road SE Salem, OR 97317
PROPERTY OWNER(S) (if more than one): Cheri Stickler	ADDRESS, CITY, STATE, AND ZIP: 4095 MacLeay Road SE Salem, OR 97317
APPLICANT REPRESENTATIVE: Britany Randall of BRAND Land Use, LLC	ADDRESS, CITY, STATE, ZIP: 12150 Jefferson Hwy 99E SE Jefferson, OR 97352
DAYTIME PHONE (if staff has questions about this application): 503-680-0949 (Britany Cell)	E-MAIL: Britany@BRANDLandUse.com
ADDRESS OF SUBJECT PROPERTY: 4095/4135 MacLeay Road SE Salem 97317	SIZE OF SUBJECT PROPERTY: 0.86 and 0.83 acres = 1.69 acres total
<p>The property owners request to change the zone from (current) <u>RS</u> to (proposed) <u>MF</u> and/or change the Comprehensive Plan designation from <u>Single Family Residential</u> to <u>Multiple Family Residential</u>. Provide detailed information on the attached "Applicant Statement" page.</p>	
<p>Will a railroad highway crossing provide the only access to the subject property? () Yes () No If yes, which railroad: No.</p>	

FOR OFFICE USE ONLY:

Township <u>7</u>	Range <u>2W</u>	Section <u>31BD</u>	<u>Application elements submitted:</u>
Tax lot number(s) <u>6200 + 6300</u>	Zone: <u>RS</u>	Comp Plan: <u>RS</u>	<input checked="" type="checkbox"/> Title transfer instrument
Zone map number: <u>147</u>	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural		<input checked="" type="checkbox"/> 2 Site plans showing existing/proposed zoning
<input type="checkbox"/> TPA/header			<input checked="" type="checkbox"/> Applicant statement
Case Number: <u>ZC/CP/P21-009</u>	<u>RD</u>		<input type="checkbox"/> GeoHazard Peer Review (if applicable)
Signs given (min. agg. only):			<input checked="" type="checkbox"/> Filing fee
Date determined complete:			Application accepted by: <u>RD/AB</u>
			Date: <u>9/7/21</u>

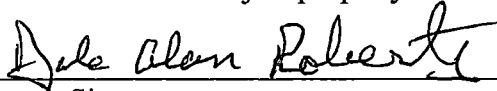
THE APPLICANT(S) SHALL CERTIFY THAT:

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

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

Dale Alan Roberts

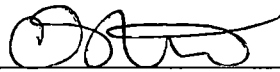
Print Name



Signature

Cheri Stickler

Print Name



Signature

Print Name

Signature

Print Name

Signature

DATED this 7 day of September, 2021



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Fee: Please check the appropriate box:

- Partition - \$940
- Partition in an SGO Zone - \$1250

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**Marion County
Planning**

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ADDRESS OF SUBJECT PROPERTY: 4095/4135 MacLeay Road SE Salem 97317	SIZE OF SUBJECT PROPERTY: 0.86 and 0.83 acres = 1.69 acres total

The property owners of the subject property request to divide a _____ acre parcel into two or three parcels containing _____, _____, and _____ acres or square feet each. Provide detailed information on the attached "Applicant Statement" page.
Please see attached plan map.

Will a railroad highway crossing provide the only access to the subject property? () Yes () No
If yes, which railroad:
No.

FOR OFFICE USE ONLY

Township	Range	Section	Application elements submitted:
Tax lot number(s):			<input type="checkbox"/> Title transfer instrument
Zone:			<input type="checkbox"/> Site plan
Zone map number:			<input type="checkbox"/> Applicant statement
<input type="checkbox"/> TPA/header			<input type="checkbox"/> GeoHazard Peer Review (if applicable)
Case Number:			<input type="checkbox"/> Filing fee
<input type="checkbox"/> Urban <input type="checkbox"/> Rural			<input type="checkbox"/> SGO Peer Review (if applicable)
			<input type="checkbox"/> Road name information
Date determined complete:			Application accepted by:
			Date:

IF THE PARTITION INCLUDES THE CREATION OF A PRIVATE ROADWAY PLEASE LIST BELOW FOUR (4) PROPOSED ROAD NAMES, IN THE ORDER OF PREFERENCE (see the attached information sheet):

(1) NA

(2)

(3)

(4)

ATTACH A MAP SHOWING ALL PARCELS THAT WILL HAVE ACCESS OFF THIS EASEMENT, AND INCLUDE THE ADDRESS AND LOCATION OF ALL DWELLINGS ON THE PARCEL, ALONG WITH THE DRIVEWAY LOCATION.


THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
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PRINTED NAME AND SIGNATURE of each owner of the subject property.

Dale Alan Roberts

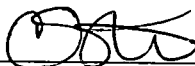
Print Name



Signature

Cheri Stickler

Print Name



Signature

Print Name

Signature

Print Name

Signature

DATED this 7 day of September, 2021



Marion County
OREGON

ADJUSTMENT APPLICATION

Fee: \$500

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ADDRESS OF SUBJECT PROPERTY: 4095/4135 MacLeay Road SE Salem 97317	SIZE OF SUBJECT PROPERTY: 0.86 and 0.83 acres = 1.69 acres total
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; provide detailed information on the attached "Applicant Statement" page): <u>Consolidated comprehensive plan amendment, zone change, partition, and adjustment application.</u>	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? () YES (●) NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY:

Township	Range	Section	Application elements submitted:
Tax lot number(s)			<input type="checkbox"/> Title transfer instrument
Zone:			<input type="checkbox"/> Site plan
Zone map number:			<input type="checkbox"/> Applicant statement
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<input type="checkbox"/> Urban <input type="checkbox"/> Rural			Application accepted by:
Date determined complete:			Date:

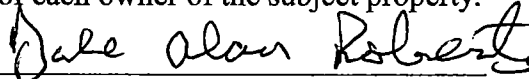
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- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

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

Dale Alan Roberts

Print Name



Signature

Cheri Stickler

Print Name



Signature

Print Name

Signature

Print Name

Signature

DATED this 7 day of September, 2021

Comprehensive Plan Amendment, Zone Change, Partition, and Adjustment in Marion County

Submittal Date: September 7, 2021

Submitted To: Marion County Planning

Project Location: 4095/4135 MacLeay Road SE
(072W31BD / 6300&6200)

Applicant(s): Dale Alan Roberts & Cheri Stickler,
Property Owners

Applicant's
Representative: Britany Randall of BRAND Land Use
Britany@brandlanduse.com

BRAND

FEASIBILITY | PLANNING | LAND USE

BRANDLANDUSE.COM

503.680.0949

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Section 1: Property Background and Request

The applicant is presenting a consolidated application to partition the subject property into three parcels, change the Comprehensive Plan Map Designation and Zoning Designation from Single Family Residential and RS (Single Family Residential) to Multiple Family with RM (Multiple Family Residential) zoning, an adjustment to side yard setbacks within the RS zone, and an adjustment to play area dimensions within the RM zone. The subject properties are currently developed with two single family homes situated on individual properties. Upon recordation of the partition plat, there will be three parcels, two which will remain with RS zoning and retain the existing single-family dwellings, and one large parcel in the rear which the applicant is proposing to be zoned RM and designated Multiple Family Residential. The applicant envisions a future construction of a 23-unit townhome style development on the property with an abundance of both private and common open spaces and special amenities for residence like designated barbeque and picnic areas, play spaces, sport court, and designated dog area. The development site consists of two contiguous properties and is approximately 1.67 acres in size, total, according to Marion County Assessor's records. The development site is located at 4095 and 4135 MacLeay Road SE in Salem, Oregon (Marion County Assessor map and tax lot numbers: 072W31BD / 6300 and 6200). The property falls under the jurisdiction of Marion County but is within the City of Salem's UGB (Urban Growth Boundary).

Section 2: Existing Conditions

The development site is approximately 1.67 acres in size and was lawfully created as lots 14 and 15 of the Meadowlawn Tracts recorded in 1939, according to Marion County records. The two properties are currently occupied by a single-family dwelling on each "tract" which will be retained on the newly proposed Parcels 1 and 2. The site is located within the City of Salem's UGB. The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Single Family Residential". The proposal is to change the SACP map designation for the property to "Multiple Family Residential".

The Comprehensive Plan designations of surrounding properties include:

North: "Single Family Residential"

South: Across MacLeay Road SE "Commercial" and "Single Family Residential"

East: "Single Family Residential"

West: "Single Family Residential"

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

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

North: There are two properties abutting the development site to the north. Marion County's zoning map designates the properties to the north as RS (Single-Family Residential). One of the abutting properties to the north is developed with a single-family dwelling while the other property is vacant.

South: There are two properties directly to the south of the development site, across MacLeay Road SE. One property is designated CO (Commercial Office) and developed with a commercial office building. The other property is designated RS (Single Family Residential) and developed with a single-family dwelling and accessory structure.

East: The property to the east of the development site is designated as RS (Single Family Residential) and developed with a single-family dwelling.

West: There are three properties abutting the development site to the west. All of these properties are designated as RS (Single Family Residential) and all but the northerly most property is developed with single-family dwellings. The northerly most property is vacant.

Section 3: Applicable Zoning Codes

Chapter 16.02 – Single-Family Residential – RS Zone

Chapter 16.04 – Multiple-Family Residential – RM Zone

Chapter 16.27 – General Development Standards and Regulations

Chapter 16.29 – Landscaping

Chapter 16.30 – Off Street Parking and Loading

Chapter 16.33 – Subdivision and Partition Requirements

Chapter 16.36 – Applications

Chapter 16.37 – Application Review Procedures

Chapter 16.39 – Zone Changes

Chapter 16.43 – Comprehensive Plan Amendments

Chapter 16.44 – Procedures for Hearings Before the Hearings Officer

Chapter 16.46 – Application Rights

Chapter 16.47 – Administration of Conditions

Section 4: Findings Applicable to Administrative Procedures

Chapter 16.36 – Applications

16.36.000 Applications generally.

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

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

16.36.010 Forms.

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

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

16.36.020 Filing.

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

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

16.36.030 Incomplete or unauthorized applications.

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

Applicant's Findings: *The applicant understands that pursuant to ORS 227.178(2), if an application for a permit, limited land use decision is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section or ORS 197.311 upon receipt by the governing body or its designee of: (a) All of the missing information;*

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or (c) Written notice from the applicant that none of the missing information will be provided.

16.36.050 Consolidation.

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

Applicant's Findings: *The applicant is requesting a consolidated review of the requested Comprehensive Plan amendment, zone change, partition, and adjustment. It is not anticipated that the consolidation will create procedural difficulties. Consolidating the application allows interested parties to review and understand the proposal as a whole and will eliminate disjointed, incomplete, or confusing information from circulating about this project.*

16.36.070 Required signatures.

Applications shall include the following signatures: A. Signatures of all owners of the subject property; or B. The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale; or C. The signatures of lessee in possession of the property with the written consent of all the owners; or D. The signatures of the agent of those identified in subsection (A), (B) or (C) of this section when authorized in writing by those with the interests described in subsection (B) or (C) of this section, and all the owners of the property; or E. The signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owners; and F. The signature of the applicant and the applicant's address and phone number.

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

16.36.080 Application contents.

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

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

16.36.090 Preliminary processing of applications.

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

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

16.36.120 Submittal of supporting evidence.

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

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

Chapter 16.37 – Application Review Procedures

16.37.000 Authority to decide.

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

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

16.37.010 Board authority.

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

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

16.37.020 Hearings, notices, and staff reports.

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

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

16.37.030 Zoning administrator decisions.

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

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

16.37.040 Reconsideration of zoning administrator's decision.

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

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

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

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

16.37.050 Reconsideration review.

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

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

16.37.060 Limit on reconsideration.

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

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

16.37.070 Final decision.

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

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

16.37.080 Appeal of zoning administrator's decision.

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

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

16.37.090 Conflicting requests.

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

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

16.37.100 Notice of appeal hearing.

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

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

Chapter 16.44 – Procedures for Hearings Before the Hearings Officer

16.44.010 Procedure for public hearing.

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

Applicant's Findings: *Pursuant to MCC 16.37.020, this application is quasi-judicial and requires review and consideration before the Hearings Officer, and a public hearing. The applicant understands the procedures outlined in Chapter 16.44 are applicable to this land use application case and will adhere to the requirements of these sections and applicable requirements of the ORS.*

16.44.020 Scheduling.

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

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

16.44.030 Hearing notice.

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

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

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

16.44.100 Conduct of hearings.

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

B. At the commencement of a hearing, a statement shall be made to those in attendance that:
1. Identifies the applicable substantive criteria; 2. Testimony and evidence must be directed toward the identified criteria or other criteria in the plan or this title which the person believes to apply to the decision; and 3. Failure to raise an issue precludes appeal to the land use board of appeals based on those criteria.

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

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

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

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

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

16.44.200 Decisions and notice.

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

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

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

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

16.44.300 Appeals of hearings officer decision.

A. An appeal shall be in writing and shall request that the board hold a hearing on the application. The appeal must: 1. Explain wherein the decision is factually or legally incorrect; or 2. Present new facts material to the decision; or 3. Propose modifications that will better conform the proposal to the requirements of this title.

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

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

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

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

16.44.400 Notice of final decisions.

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

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

Chapter 16.46 – Application Rights

16.46.010 Resubmission of application.

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

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

16.46.020 Effective date.

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

Applicant's Findings: *The applicant understands building permits or other permits requiring conformance with this title will be delayed until the decision is final. The applicant must complete conceptual and detailed approvals prior to constructing the multifamily development planned for the site.*

16.46.030 Expiration of rights granted.

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

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

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

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

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

Applicant's Findings: *The applicant is seeking approval for a Comprehensive Plan amendment, zone change, partition, and adjustments for a development site approximately 1.76-acres in size. The properties are currently developed with two single-family dwellings which are planned to be retained on two of the newly created parcels. The newly created third parcel is planned to be redesignated as multiple family residential both on the Marion County zoning map and the Salem Area Comprehensive Plan map. The applicant is planning a 23-unit townhouse style multiple family development which will require building permits from Marion County. The applicant plans to apply for the required building permits within two years of the decision on this case being issued, in compliance with the requirements of this section.*

16.46.040 Extensions of rights granted.

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

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

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

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

16.46.050 Amendment of conditions.

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

A. An application for amendment shall be submitted on the form supplied for new applications;

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

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

Chapter 16.47 – Administration of Conditions

16.47.010 General provisions.

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

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

16.47.020 Completion before occupancy.

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

Applicant's Findings: *The applicant is requesting a Comprehensive Plan amendment, zone change, partition, and adjustment to preserve the existing single-family dwellings and construct a new multiple family development. The surrounding uses are a mix of residential and commercial uses. As such, the requested redevelopment of the property is compatible with the existing surrounding uses. Though the request is a more intense residential use of the property than those surrounding, the applicant does not anticipate cumbersome conditions to be imposed. Marion County's development code requires large setbacks for RM zoning abutting RS zoned lands to allow a buffer between uses. The applicant is planning a townhouse style development which will be a nice transition from the surrounding single family uses. Residential fencing and landscaping are common ways to buffer the more intense residential use from the surrounding single-family uses. The applicant understands the conditions included in the final decision of the Hearings Officer must be satisfied prior to the establishment of the use.*

16.47.030 Performance agreements.

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

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

16.47.040 Limitations.

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

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

16.47.050 Performance bonds.

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

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

16.47.060 Continuing requirements.

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

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

16.47.070 Extensions.

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

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

Section 5: Findings Applicable to Zone Change

Chapter 16.39 – Zone Changes

16.39.000 Initiation of zone changes.

- A. Any amendment of the official zoning map involving five or less different ownerships, and which does not include any amendment to the text of the ordinance, is a zone change application. A zone change may be initiated in the manner provided for applications in Chapter 16.36 MCC.
- B. Zone changes may also be initiated by resolution of the board or planning commission when the change is for some governmental purpose or in order to bring the zoning ordinance and zoning map into compliance with the Comprehensive Plan or state law.

Applicant's Findings: *The zone change for proposed Parcel 3, approximately 1.12-acres site satisfies (A) above. The applicant has included evidence of ownership with this application submittal as Exhibit B. The request does not include any amendment to the text of the ordinance.*

16.39.010 Authority to decide.

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

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

16.39.020 Board authority.

The governing body may at any time, on its own motion, call up any zone change application or resolution and make the decision on said application or resolution. In those cases where the board exercises its authority to make the decision on the zone change proposal, that decision is final and appealable only as provided by Oregon law as an appeal from the final decision of the governing body.

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

16.39.030 Review procedures.

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

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

16.39.040 Hearings officer's decision.

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

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

16.39.050 Criteria.

Approval of a zone change shall include findings that the change meets the following criteria:

A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.

Applicant's Findings: *As described throughout this written narrative, the applicant is requesting a consolidated Comprehensive Plan amendment, zone change, partition, and adjustment*

application. The Salem Area Comprehensive Plan currently designates the subject property as Single Family Residential and the Marion County zoning map designates the property as Single Family Residential (RS). The request is to partition the two contiguous properties into three parcels, as shown on the attached preliminary site plan. The two smaller parcels will retain the existing single-family dwellings and will keep the existing single family residential designations on both the Salem Area Comprehensive Plan and the Marion County zoning map. The applicant is proposing to redesignate the third and largest parcel as multiple family residential both on the Salem Area Comprehensive Plan and the Marion County zoning map. At the completion of this project, the Comprehensive Plan designation and zoning classification of the subject property will be consistent, thereby meeting the requirements of this criterion. The applicant addresses the applicable Comprehensive Plan policies and Statewide Planning Goals under Section 6 of this document.

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

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

Applicant's Findings: *The subject property is within the City of Salem's Urban Growth Boundary. Though the property has not been annexed into the City, water and sewer infrastructure is in place and available within surrounding streets/areas and appear to be adequate to serve the future proposed development. Site-specific infrastructure requirements should be evaluated and imposed in more detail at the time of development to ensure they are designed to adequately serve the project. The applicant is proposing to retain the two existing single-family dwellings on parcels 1 and 2 and developing 23 townhouse style multiple family dwellings on parcel 3, the largest of the proposed parcels.*

The property abuts MacLeay Road SE along its southerly property line. The City of Salem's Transportation System Plan designates Center Street as a minor arterial street where it abuts the development site. Any future development on the property will have access to a full and complete transportation network which is currently in place.

The proposal meets this criterion.

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

Applicant's Findings: *The applicant is proposing a zone change from RS (Single Family Residential) to RM (Multiple Family Residential). Upon approval of the requested zone change, development of the property will be subject to the provisions of MCC Chapter 16.4 for multiple-family residential development. The applicant plans to submit for building permits, as required, in the future do develop a 23-unit townhouse style multiple family complex.*

According to MCC Chapter 16.4, the RM (multiple-family residential) zone is primarily intended to provide for multiple-family dwellings on a lot, or attached dwellings on separate lots, at residential densities greater than permitted in the RL zone. Other uses compatible with residential development are also appropriate. RM zones are located in areas designated as

multiple-family residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with urban services. They are suited to locations near commercial office and retail zones and along collector and arterial streets.

Upon evaluation of the subject property, it is clear the project site will be consistent with the purpose statement of the RM zone. The property proposed as Parcel 3 of the partition plat, as shown on the attached preliminary site plan, will have frontage onto MacLeay Road SE. MacLeay Road SE is designated as a minor arterial street within the City of Salem's Transportation System Plan. The proposal is consistent with the diverse mix of housing types and land uses in the surrounding area.

The surrounding area is urbanized and has access to utility infrastructure which is anticipated to have the capacity to meet the requirements of the future 23-unit development. Designating properties along collector and arterial streets for higher density residential uses is the best use of the properties as they are typically near services such as public transportation and employment opportunities. The subject property is located in an urbanized area of the city where services exist in the vicinity of the site, including shopping, employment, entertainment, parks, elementary, middle, and high schools. The Lancaster Drive corridor is located west of the property which has commercial nodes providing a wide range of shopping, employment, and entertainment opportunities.

The requested zone change is submitted in conjunction with a request to amend the Salem Area Comprehensive Plan to redesignate the property to RM (Multiple Family Residential). By submitting a consolidated application, the applicant is preventing conflict between the Marion County zoning map and the Salem Area Comprehensive Plan map. The City of Salem has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of land available for multifamily residential development. The proposal would convert approximately 1.12 acres of land away from single-family residential, to a Multiple Family Residential designation, where the HNA identifies a deficit within the City's Urban Growth Boundary.

The proposal meets this criterion.

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

Applicant's Findings: *The proposal is to change the zoning designation of the newly created Parcel 2 to RM (Multiple Family Residential). Surrounding properties are zoned and used as follows:*

North: *There are two properties abutting the development site to the north. Marion County's zoning map designates the properties to the north as RS (Single-Family Residential). One of the abutting properties to the north is developed with a single-family dwelling while the other property is vacant.*

South: There are two properties directly to the south of the development site, across MacLeay Road SE. One property is designated CO (Commercial Office) and developed with a commercial office building. The other property is designated RS (Single Family Residential) and developed with a single-family dwelling and accessory structure.

East: The property to the east of the development site is designated as RS (Single Family Residential) and developed with a single-family dwelling.

West: There are three properties abutting the development site to the west. All of these properties are designated as RS (Single Family Residential) and all but the northerly most property is developed with single-family dwellings. The northerly most property is vacant.

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

The proposal meets this criterion.

16.39.060 Conditional zone changes.

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

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

Applicant's Findings: Typically, when land use actions are approved with conditions, the intent of the conditions is to mitigate impact of the proposed development on surrounding properties. In the case of this request, the applicant is proposing multiple-family development be allowed on property with is abutting a minor arterial street (MacLeay Road SE) where there is a diverse mix of designations including commercial and single-family residential designations. The applicant anticipates a 23-unit townhouse style development on the newly created Parcel 3 in the future. Should the Hearings Officer choose to impose conditions of approval on the zone change portion of this request, the applicant understands what items may be conditioned as outlined in Section B above.

16.39.070 Limits on conditions.

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

- A. Conditions shall be stated with specificity; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.
- B. Conditions which would have the effect of limiting use of the subject property to one particular owner, tenant, or business shall not be imposed. Conditions shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.
- C. The provisions of Chapter 16.47 MCC shall apply to conditions imposed on a zone change.
- D. If the dedication of street right-of-way or street improvements are required as provided in MCC 16.39.060(B)(10) and (11), provision of dedication, improvements or funding shall be deferred until a building permit or certificate of occupancy is required or prior to the use being established.

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

16.39.080 Adjustments to development requirements.

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

- A. The granting of the adjustment meets the criteria set forth in Chapter 16.41 MCC, except that the applicant shall bear no burden of proof as to such criteria;
- B. The adjustment is required to accomplish a condition imposed as a part of the conditional zone change; and
- C. The need for the adjustment was identified during the public hearing on the zone change.

Applicant's Findings: The applicant is seeking two adjustments to development standards in order to utilize the development site to highest and best use. This narrative responds to the applicable adjustment criteria in Section 9 below.

The first adjustment being sought by the applicant is for side yard setbacks within the RS zone. On proposed Parcel 1, the existing single-family dwelling requires a reduction to the minimum 5-foot side yard setback down to approximately 3.5-feet, which is a 30% reduction to the standard. On proposed Parcel 2, the existing single-family dwelling requires a reduction to the minimum 5-foot side yard setback down to approximately 3-feet, which is a 40% reduction to the standard.

The second adjustment identified by the applicant is an adjustment to the dimensioning standard for the multiple-family open space requirement. In accordance with MCC 16.04.200(C), the average length of a playground or playfield shall not be more than twice the average width. As shown on the conceptual site plan, none of the proposed open spaces, play areas, or the sport court meet this standard, and the applicant is seeking an adjustment.

The applicant has identified and expressed the need for these adjustments throughout this written narrative. The applicant has included findings below in Section 9 demonstrating conformance with the adjustment criteria. Additionally, the applicant will make it known during the public hearing that these adjustments have been identified as needed to successfully develop the subject site.

Section 6: Findings Applicable to Comprehensive Plan Amendment

Chapter 16.43 – Comprehensive Plan Amendments

16.43.000 Definitions.

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

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

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

Applicant's Findings: *The applicant is requesting a nonlegislative Comprehensive Plan amendment to the City of Salem Comprehensive Plan map for a newly proposed parcel which will be approximately 1.12-acres in size, within the City of Salem's Urban Growth Boundary but under Marion County's jurisdiction. This application meets the criterion of section A above.*

16.43.010 Procedures for legislative plan amendments.

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

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

16.43.020 Procedures for nonlegislative plan amendments.

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

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

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

The proposed Multi-Family Residential designation is logical near a Minor Arterial Street corridor. The surrounding area is well established but there are several pockets which have the potential to be redeveloped with higher density residential options. The immediate neighborhood is significantly lacking diverse housing options and the proposal will help fill that need for the area. The subject site is just feet away from commercial nodes at the corner of MacLeay Road and Lancaster Drive. This designation pattern is reflected in the Salem Area Comprehensive Plan Map. The subject property's location makes the proposed multi-family designation a logical choice for the site, given its location near Lancaster Drive and the Interstate.

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

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

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

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

Applicant's Findings: *As stated previously in this narrative, the City has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of approximately 207-acres of land available for multifamily residential development. The proposal would convert approximately 1.12-acres of land away from the single-family residential designation to a Multiple Family Residential designation, where the HNA identifies a significant deficit.*

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

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

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

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

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

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

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

Applicant's Findings: *The applicant is proposing to introduce the first multiple family development within the immediate area. The applicant is proposing a townhouse style development with articulation, open space, and landscaped yards which greatly exceed the minimum requirements for the RM zone as to remain consistent with the scale and style of the neighborhood. As described in findings above, residential properties in the vicinity of the site are developed or planned for development. The proposed Multiple Family Residential designation should be thought of as compatible within the area as commercial nodes exist to the south and west of the development site along Lancaster Drive and MacLeay Road. Where the site abuts lower density residential properties, Multiple Family Design Guidelines and Standards established in Marion County Code require landscape buffers and screening to ensure an adequate transition to the smaller bulk and scale of single-family residences.*

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

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

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

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

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

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

Applicant's Findings: *The development standards established in the Marion County Code for multiple family developments will ensure the use developed on the site are adequately served. The applicant anticipates frontage improvements along MacLeay Road SE which would accommodate pedestrian, bicycle, and vehicular access in and out of the development. It is well known the Salem area has a great need for diverse housing types. By including pockets of multiple family, where appropriate, the population growth within the area can be better served.*

There are no known existing nuisances or hazards that would impact future residents of the development.

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

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

Applicant's Findings: *The RM (Multiple Family Residential) zone proposed by the applicant includes a maximum density of one dwelling unit per 1,500 square feet of lot area, encouraging efficient use of residential land and public facilities. As described in findings above, the immediate vicinity includes a range of use classifications. The property is along the Central Core Route for Cherrits which connects to the Downtown Transit Center and to Lancaster Drive. It doesn't appear any additional public transportation facilities are needed to adequately serve the proposed development. Santana Village Park is located just east of the property and includes picnic tables, a playground, hard surface walking paths, and sport courts.*

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

- a. The transportation system shall promote all modes of transportation and dispersal rather than concentration of through traffic;*
- b. Through traffic shall be addressed by siting street improvements and road networks that serve new development so that short trips can be made without driving;*

- c. *The transportation system shall provide for a network of streets fitted to the terrain with due consideration for safety, drainage, views, and vegetation.*

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

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

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

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

The applicable Statewide Planning Goals are addressed as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Applicant’s Findings: In 2014, the City conducted a Housing Needs Analysis (HNA) to develop strategies for the community to meet housing needs through 2035 and to inform policy decisions related to residential land. According to the Housing Needs Analysis (HNA), “Salem has a deficit of capacity in the MF designation, with a deficit of 2,897 dwelling units and a deficit of 207 gross acres of residential land.” With a Multiple Family Residential designation, the subject property could be developed as multi-family dwellings; the rezone helps maximize the density while helping to meet housing needs within the Salem Urban Growth Boundary. The proposed 1.12-acres could provide approximately 23 dwelling units based on the maximum density of the RM zone. The increase in density will reduce the deficit of identified in the HNA.

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

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

Applicant’s Findings: The water, sewer, and storm infrastructure are available within surrounding streets/areas and appear to be adequate to serve the proposed development. Site-specific infrastructure requirements will be addressed when the applicant applies for building permits to developed proposed Parcel 3 with a multiple family development.

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

Applicant’s Findings: Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule (OAR) 660-012-0060. This provision is triggered by amendments to comprehensive plans and land use regulations that “significantly affect” a surrounding transportation facility (road, intersection, etc.). Where there is a “significant effect” on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a “significant effect” is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either an amendment that “allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility,” or an amendment that would “reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP.”

The proposed Comprehensive Plan Change and Zone Change and future 23-unit development will not have a significant effect on the transportation system. The impact is so insignificant that neither a TIA nor TPR analysis is required. The proposal complies with Goal 12.

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

Applicant's Findings: *The subject property is located within the Urban Growth Boundary (UGB), and public facilities required to serve future development of the property are in close proximity. The proposed comprehensive plan map amendment will allow the efficient use of land within the UGB in compliance with Goal 14.*

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

Applicant's Findings: *The City has accepted, but not adopted, a Housing Needs Analysis (HNA) prepared in 2015 which includes a Buildable Land Inventory identifying a surplus of approximately 1,975 acres for single family residential development and a deficit of 207-acres of land available for multifamily residential development. The proposal would convert approximately .44-acres of land away from a single-family residential designation to a multiple family residential designation, where the HNA identifies a deficit.*

According to the Housing Needs Analysis (HNA), "Salem has a deficit of capacity in the MF designation, with a deficit of 2,897 dwelling units and a deficit of 207 gross acres of residential land." With a Multiple Family Residential designation, the subject property could be developed with multi-family dwellings; the rezone helps maximize the density while helping to meet housing needs within the Salem Urban Growth Boundary. The proposed Parcel 3 will be approximately 1.12-acres and could provide approximately 23 dwelling units based on the density allowances of the RM zone. The increase in density will reduce the deficit of identified in the HNA.

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

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

Applicant's Findings: *The proposed Comprehensive Plan Map amendment from Single Family Residential to Multifamily Residential is in the public interest and would be of general benefit*

because it would increase the number of housing units that can be provided on the subject property, consistent with the needs of the City. The proposed change in land use designation is consistent with the location and character of the property, with adjacent land use designations, and with the existing and planned transportation facilities available to serve the property.

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

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

Section 7: Findings Applicable to Zoning and Development

Chapter 16.02 – Single-Family Residential – RS Zone

16.02.010 Uses.

The following uses, when developed under the applicable development standards in this title, are permitted in the RS zone:

- A. Detached single-family dwelling* on a lot.
- B. Childcare home* for 12 or fewer children.
- C. Utility* substations.
- D. The following uses subject to the special standards in Chapter 16.26 MCC:
 - 1. Mobile home* on a lot in a mobile home subdivision or as a replacement for a legally nonconforming mobile home (see MCC 16.26.020).
 - 2. Two-family shared housing (see MCC 16.26.040).
 - 3. Duplex* on a corner lot (see MCC 16.26.060).
 - 4. Zero side yard dwelling units* (see MCC 16.26.080).
 - 5. Home occupations, limited* (see MCC 16.26.200).
 - 6. Residential sales offices (see MCC 16.26.300).
 - 7. Boat and RV storage area (see MCC 16.26.340).
 - 8. Religious organizations* (see MCC 16.26.600).
 - 9. Planned developments (see MCC 16.26.800).
 - 10. Mobile home parks (see MCC 16.26.901).

11. Elementary and secondary schools, SIC 8211 (see MCC 16.26.620).

12. Manufactured home on a lot (see MCC 16.26.030).

E. Signs subject to Chapter 16.31 MCC.

F. The following accessory uses are permitted on a lot in conjunction with a permitted dwelling or mobile home:

1. Decks and patios (open, covered or enclosed);
2. Storage building for firewood, equipment used in conjunction with dwelling and yard maintenance, personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
3. Greenhouse;
4. Sauna;
5. Hobby shop;
6. Shelter for pets;
7. Fallout shelters;
8. Swimming pools and hot tubs;
9. Guest facility* subject to MCC 16.25.200(A)(9);
10. Rooming* or boarding* of up to two persons in a dwelling;
11. Pets*. Not more than 10 mammals over four months old are allowed as pets unless a conditional use permit is obtained;
12. One recreational vehicle space* subject to MCC 16.26.410;
13. Additional kitchens in a dwelling provided all kitchens in the dwelling are used by only one family and provided the kitchens are not located in separate dwelling units;
14. Offering for sale five or fewer vehicles* owned by the occupants of the dwelling in any calendar year;
15. Garages* and carports* for covered vehicle parking;
16. Child foster home*;
17. Sleeping quarters in the dwelling or mobile home for domestic employees of the resident of the dwelling or mobile home;
18. Fences subject to the requirements in Chapter 16.28 MCC;

19. Vegetable gardens, orchards and crop cultivation for personal use. No sale of produce is permitted. No birds or furbearing animals, other than pets*, and no livestock, poultry or beekeeping permitted;

20. Parking of vehicles* in a structure, or outdoors provided:

a. All of the vehicles are owned by the owner or lessee of the lot or their guests;

b. Vehicles may be parked outdoors:

i. Within the front yard in a driveway that meets the standards in MCC 16.30.150;

ii. In the lot area where accessory buildings are permitted, provided the parking area is screened by a six-foot-high sight-obscuring fence, wall, or hedge from other lots in a residential use and has an all-weather surface drained to prevent standing water;

iii. Not more than three vehicles shall be parked on a lot within required yards abutting streets;

c. Parked vehicles shall be for the personal use of the occupants of the dwelling;

d. Two vehicles used in conjunction with a home occupation or other employment may be parked on a lot;

e. Any vehicle used in conjunction with a home occupation or other employment that is parked on a lot and is rated at more than one ton capacity must be parked in an enclosed structure.

G. Temporary uses permitted in MCC 16.25.300.

H. Transit and school bus stop shelters.

Applicant's Findings: *The applicant is proposing a three-parcel partition of property which is currently zoned RS (Single Family Residential). The development site currently consists of two single-family dwellings, each on their own lot. The applicant is retaining both single-family dwellings on proposed Parcels 1 and 2 as well as maintaining the RS zoning on these parcels. In accordance with this section, the single-family dwellings are a permitted use within this zone.*

16.02.100 Development standards.

The standards and regulations in this chapter and the additional standards and regulations referenced in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this title. In the event of a conflict between a provision of this chapter and a more restrictive provision of this title applicable to a particular lot, structure or use, the more restrictive provision shall apply.

Applicant's Findings: *The applicant is proposing a Comprehensive Plan amendment, zone change, partition, and adjustments to the subject development site. The site currently consists of two lots zoned RS each developed with a single-family dwelling. The applicant is responding to the provisions of this chapter to demonstrate that the newly created parcels will comply with all applicable code, unless specified where an adjustment is requested. The applicant understands the more restrictive provisions shall apply.*

16.02.110 Height.

Within an RS zone:

A. Structures shall not exceed 35 feet in height except as provided for in subsections (B) and (C) of this section.

B. Structures for public and semi-public* uses: 70 feet, provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.

C. Structures exempt from height requirements identified in MCC 16.27.160 and structures with specific height requirements identified in Chapter 16.28 MCC are not subject to subsections (A) and (B) of this section; however, required setbacks for structures identified in MCC 16.27.160 shall be increased one foot for every foot the structure exceeds 35 feet.

Applicant's Findings: *Both of the existing single-family dwellings which will be retained on proposed Parcels 1 and 2 are well under the maximum height limit of 35 feet. This criterion is met.*

16.02.120 Lot area and dimensions.

Within an RS zone:

A. Lot Area. The minimum lot area for a single-family dwelling in a subdivision approved after the effective date of the ordinance codified in this title, is 4,000 square feet when located within the Salem/Keizer area urban growth boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)

B. Lot Dimensions. Except as provided in MCC 16.26.800 for planned developments, the width of a lot shall be at least 60 feet; provided, that within the Salem/Keizer urban growth boundary the width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet.

Applicant's Findings: *As established throughout this narrative, the subject site is within the City of Salem's urban growth boundary but outside corporate city limits. The minimum lot area for proposed Parcels 1 and 2 must adhere to the 4,000 square foot standard. The minimum lot dimensions applicable to proposed Parcels 1 and 2 are 40-feet in width and 70-feet in depth. As shown on the attached conceptual plan, proposed Parcel 2 is planned to exceed 14,000 square feet in size and proposed Parcel 1 is planned to exceed 10,000 square feet. The exact square footage will be determined and provided by the licensed surveyor during the formal partition*

plat phase of this project. Each proposed parcel is planned to have over 100-feet of street frontage and Parcel 1 will have a median depth of 160-feet while Parcel 2 is planned to have a median depth of more than 110-feet. The minimum square footage and lot depth and width will exceed the requirement for both proposed Parcels 1 and 2.

16.02.130 Front yards and yards abutting streets.

Within an RS zone:

A. Within the Salem/Keizer urban growth boundary, along the full extent of each front lot line, or lot line abutting a street right-of-way line, there shall be a required yard 12 feet in depth; provided, however, garages or carports having a vehicle entrance facing a street or roadway right-of-way line shall be set back at least 20 feet from the street right-of-way line. For other urban growth boundaries, the required yard shall be 20 feet.

B. Notwithstanding the provisions of subsection (A) of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street or from the special setback established in MCC 16.27.210, whichever is greater.

C. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.

D. Yards for planned developments and mobile home parks shall be as provided in Chapter 16.26 MCC.

Applicant's Findings: *No portion of the existing single-family dwelling is located closer than 20-feet from the front property line. Even if a dedication is required for a 34-foot half width on MacLeay Road, the existing development will still meet the standards.*

16.02.140 Interior side yards.

Within an RS zone the following side yards shall be provided:

A. A minimum of five feet; provided, inside the Salem/Keizer urban growth boundary, side yards of zero feet on one side and at least 10 feet on the other side are permitted for zero side yard dwellings (see MCC 16.26.080) when the lot abutting the zero setback is in the same ownership at the time the dwelling is constructed, and the zero setback will not encroach on any easements.

B. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.

C. Yards for planned developments and mobile home parks shall be as provided in Chapter 16.26 MCC.

Applicant's Findings: *The proposal includes a partition. The driveway for proposed Parcel 3 is planned to be located between the two existing dwellings and have frontage on MacLeay Road. Due to the minimum driveway width requirement for fire access, the applicant must request a reduction to the side yard setback for each existing dwelling where they abut the new property line for Parcel 3.*

On proposed Parcel 2, the existing single-family dwelling requires a reduction to the minimum 5-foot side yard setback down to approximately 3-feet, which is a 40% reduction to the standard. On proposed Parcel 1, the existing single-family dwelling requires a reduction to the minimum 5-

foot side yard setback down to approximately 3.5-feet, which is a 30% reduction to the standard. Findings in response to the applicable adjustment criteria are included in Section 9 of this narrative.

16.02.150 Interior rear yards.

Within an RS zone the following rear yards shall be provided:

- A. Within the Salem/Keizer urban growth boundary 14 feet for any single-family dwelling and for a primary building that does not exceed 15 feet in height. A primary building greater than 15 feet in height shall maintain a 20-foot rear yard.
- B. Within other urban growth boundaries, 20 feet for a single-family dwelling and for any portion of a building other than a single-family dwelling.
- C. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.
- D. Yards for planned developments and for mobile home parks shall be as provided in Chapter 16.26 MCC.

Applicant's Findings: *The rear yard setbacks of the existing single-family dwellings greatly exceed the minimums with Parcel 1 having a setback in excess of 35-feet and Parcel 2 having a setback in excess of 65-feet.*

16.02.200 Landscaping.

Within an RS zone:

- A. All portions of required yards lying between a street or roadway and the dwelling, or between the street or roadway and any sight-obscuring fence, wall or hedge located within the required yard, shall be landscaped.
- B. All required landscaped areas shall be landscaped as provided in Chapter 16.29 MCC.

Applicant's Findings: *The existing single-family dwellings were established in the 1950's. Each of the yards has mature landscaping which is planned to remain in place on proposed Parcels 1 and 2, meeting the standard of this section.*

Chapter 16.04 – Multiple-Family Residential – RM Zone

16.04.010 Uses.

The following uses, when developed under the applicable development standards in this title, are permitted in the RM zone:

- A. Duplex*, multiple-family dwelling*.
- B. Combination of permitted attached or detached dwellings on a lot.
- C. Utility* substation.
- D. Childcare home* for 12 or fewer children.

E. Child foster home*.

F. Residential facility*.

G. The following uses subject to the special standards in Chapter 16.26 MCC:

1. Two-family shared housing (see MCC 16.26.040).
2. Zero side yard dwelling units* (see MCC 16.26.080).
3. Home occupations, limited* (see MCC 16.26.200).
4. Childcare facility* (see MCC 16.26.220).
5. Nursing care facility* (see MCC 16.26.240).
6. Bed and breakfast establishments (see MCC 16.26.260).
7. Residential sales offices (see MCC 16.26.300).
8. Public golf course, SIC 7992 (see MCC 16.26.320).
9. Boat and RV storage area (see MCC 16.26.340).
10. Mixed use buildings (see MCC 16.26.460).
11. Religious organizations* (see MCC 16.26.600).
12. Elementary and secondary schools, SIC 8211 (see MCC 16.26.620).
13. Planned developments (see MCC 16.26.800).
14. Mobile home parks (see MCC 16.26.901).
15. Recreational vehicle park within a mobile home park (see MCC 16.26.904).

H. Signs subject to Chapter 16.31 MCC.

I. Accessory, secondary, and temporary uses permitted in MCC 16.25.200 and 16.25.300.

Applicant's Findings: *Newly created Parcel 3 is the subject of the proposed Comprehensive Plan amendment and zone change. The future development proposed on this site consists of a 23-unit townhome style development. The proposed use is permitted outright within the RM zone.*

16.04.020 Conditional uses.

The following uses may be permitted subject to obtaining a conditional use permit:

- A. Rooming and boarding houses* or lodging rooms*.
- B. Beauty shops, barber shops, parking lot, SIC 7521, when adjacent to a commercial zone.
- C. Public parks and playgrounds.
- D. Public buildings and structures such as libraries, fire stations and public utility facilities*.

- E. Civic, social and fraternal organizations, SIC 864.
- F. Individual and family social services, SIC 8322.
- G. Membership recreation club, SIC 7997 (see MCC 16.26.320).
- H. Home occupations, conditional* subject to MCC 16.32.400.

Applicant's Findings: *The applicant is not seeking a conditional use permit as part of this application. This section is not applicable.*

16.04.030 Prohibited uses.

Within an RM zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under MCC 16.04.010 and 16.04.020.

Applicant's Findings: *The proposal does not include any uses which are prohibited within the RM zone.*

16.04.100 Development standards.

The standards and regulations in this chapter and the additional standards and regulations referenced in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this title. In the event of a conflict between a provision of this chapter and a more restrictive provision of this title applicable to a particular lot, structure or use, the more restrictive provision shall apply.

Applicant's Findings: *With the exception of one adjustment sought by the application to the dimensional standards for the pay area and open space within the multiple-family development, the proposal meets all of the standards for development outlined in these sections as demonstrated throughout this narrative. The applicant understands when standards are in conflict, the more restrictive standard will apply.*

16.04.110 Height.

Within an RM zone:

A. Structures shall not exceed 35 feet in height except as provided for in subsections (B) and (C) of this section.

B. Structures for public and semi-public* uses: 70 feet, provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.

C. Structures exempt from height requirements identified in MCC 16.27.160 and structures with specified height requirements identified in Chapter 16.28 MCC are exempt from subsections (A) and (B) of this section; however, required setbacks for structures identified in MCC 16.27.160 shall be increased one foot for every foot the structure height exceeds 35 feet.

Applicant's Findings: *The applicant is proposing four buildings, as shown on the conceptual plan included with this application submittal. Each of the proposed buildings complies with the height limitation of the RM zone. The exact height of each building will be provided in detail at the time of building permit approval.*

16.04.120 Lot area and dimensions.

Within an RM zone:

A. Lot Area, Multifamily Dwellings and Other Uses. At least 6,000 square feet. (See Chapter 16.27 MCC for density limitations.)

B. Lot Dimensions. The width of a lot shall be at least 40 feet, and the depth of a lot shall be at least 70 feet except as provided in MCC 16.26.800 for planned developments.

Applicant's Findings: *The multiple family development is proposed for Parcel 3. Parcel 3 is planned to be approximately 48,869 square feet with an average depth and width exceeding 200-feet. The minimums required by this section are exceeded by the proposal.*

16.04.130 Front yards and yards abutting streets.

Within an RM zone:

A. For dwellings, along the full extent of each front lot line, lot line abutting a street right-of-way line, there shall be a required yard 12 feet in depth; provided, however, that garages or carports having a vehicle entrance facing a street shall be set back at least 20 feet from the street right-of-way line.

B. For other uses, along the full extent of each front lot line, lot line abutting a street right-of-way line, there shall be a required yard one foot in depth for each one and one-half feet of building height, but in no event less than 12 nor more than 20 feet in depth.

C. Notwithstanding the provisions of subsections (A) and (B) of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street.

D. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.

E. Yards for planned developments and mobile home parks shall be as provided in Chapter 16.26 MCC.

F. Special setbacks, in addition to those in this section, are established in MCC 16.27.200.

Applicant's Findings: *As shown on the conceptual plan, the configuration of Parcel 3 is similar to a flag lot. Access is provided by a 24-foot-wide "driveway". Because of the configuration of the property, the development is setback from the street approximately 120-feet or more.*

16.04.140 Interior side yards.

Within an RM zone the following side yards shall be provided:

A. Five feet, except 20 feet for any portion of a building greater than 15 feet in height, when the side lot line abuts an RS zone. Side yards of zero feet on one side or both sides are permitted for zero side yard dwellings (see MCC 16.26.080) when the lot abutting the zero setback is in the same ownership at the

time the dwelling is established, and the dwelling does not encroach into any easements. Where a zero setback is provided, the setback on the abutting lot shall be either zero feet or at least 10 feet.

B. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.

C. Yards for planned developments and mobile home parks shall be as provided in Chapter 16.26 MCC.

Applicant's Findings: *Parcel 3 is surrounded by properties zoned RS. Each structure is setback 20-feet, meeting this standard. The garbage enclosure, along the westerly property line, is setback approximately 10-feet which exceeds the minimum for accessory structures.*

16.04.150 Interior rear yards.

Within an RM zone the following rear yards shall be provided:

A. Five feet, except 20 feet for any portion of a building greater than 15 feet in height, when the rear lot line abuts an RS zone.

B. Yards for planned developments and mobile home parks shall be as provided in Chapter 16.26 MCC.

C. Setbacks for accessory structures shall be as provided in Chapter 16.28 MCC.

Applicant's Findings: *Parcel 3 is surrounded by properties zoned RS. Each structure is setback 20-feet, meeting this standard. The garbage enclosure, along the westerly property line, is setback approximately 10-feet which exceeds the minimum for accessory structures.*

16.04.200 Landscaping.

Within an RM zone:

A. All portions of required yards lying between a street and the dwelling or between the street and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.

B. All areas required to be landscaped under subsection (A) of this section shall be landscaped as provided in Chapter 16.29 MCC.

C. In addition to landscaped areas required under subsection (A) of this section, playgrounds with play equipment or irrigated grass playfields, at least 400 square feet in area each, shall be provided whenever eight or more dwelling units with two or more bedrooms are located on a lot. Fifty square feet of playground or playfield shall be provided for each two or more-bedroom dwelling unit. The average length of a playground or playfield shall not be more than twice the average width. At least one area shall be a playfield.

Applicant's Findings: *The applicant understands landscaping will be required for the development and plans to install landscaping. The proposal includes 23-dwelling units which will have two bedrooms and two bathrooms each. Pursuant to this section of code, the minimum open space requirement is 1,150 square feet. As shown on the attached site plan, the applicant is proposing two play areas with a total square footage of 2,370 square feet, a sports court planned to be 560 square feet, and other open space which will be 11,370 square feet. The open space and landscaped areas greatly exceed the minimum requirement for the development. The*

applicant is seeking an adjustment to the average width and depth standard for the common open space. None of the provided recreational or open space areas meet the requirement stating the average length of the area shall not be more than twice the average width. Thereby the applicant is seeking an adjustment to this standard and provides findings in response to the adjustment criteria in Section 9 of this narrative.

16.04.250 Storage.

Within an RM zone open outdoor storage of materials or equipment shall be screened from view from the street and adjacent properties by a sight-obscuring fence, wall, or hedge.

Applicant's Findings: *The development is not proposing any outdoor storage areas. However, the site is planned to be fenced entirely in an effort to screen the higher density residential use from surrounding lower density residential uses.*

Chapter 16.27 – General Development Standards and Regulations

16.27.000 Applicability.

The standards and regulations in this chapter apply to all lots, structures, and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter pertaining to the subject lot, structure or use have been satisfied. The regulations in this chapter apply to all zones unless otherwise specified. In certain cases, regulations are applied to certain groups of zones.

The provisions of this chapter are complementary and supplementary to other provisions of this title. In the event of a conflict between a provision of this chapter and a more restrictive provision of this title applicable to a particular lot, structure or use, the more restrictive provision shall apply.

Applicant's Findings: *The application includes a proposal to retain existing development on reconfigured units of land and development of a new multiple family complex on a newly created parcel. The provisions of this section are applicable to this application.*

16.27.010 Structures to be on a lot.

All structures and uses shall be entirely situated on a single lot except as allowed under the unit ownership law (ORS 91.400 et seq.). Where a structure is placed on two or more separate lots under single ownership so that the structure overlaps the common boundary or encroaches on required yards along the common lot line, the separate lots shall be considered a single lot for the purpose of this title except that buildings which are attached at a common property line, but which meet all requirements of the building code as separate buildings, shall be considered separate and shall not have the effect of combining the affected lots.

Applicant's Findings: *Each of the existing single-family dwellings will be situated entirely within their respective Parcels 1 and 2. The newly developed multiple family complex will be entirely situated within Parcel 3 and will comply with the required setbacks.*

16.27.020 Division or alteration of lots.

In addition to any requirement in Chapter 16.33 MCC, Subdivision and Partition Requirements, no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this title. If a lot does not meet such requirements at the time this title is adopted it shall not be divided or altered in such a manner that the lot is less in conformity with these regulations in any respect, except as otherwise provided in this title.

Applicant's Findings: *As demonstrated throughout this narrative and shown on the attached site plan, the proposed partition meets the lot configuration requirements for the RS and RM zones.*

16.27.030 Lot coverage, generally.

Specific standards for lot size or area, for lot dimensions, and for lot coverage are set forth in the applicable zone. Where a standard for lot coverage is expressed as a percentage, such standard means the percentage of total lot area covered by buildings and by roofed but unenclosed structures, whether or not attached to buildings. Covered structures less than five feet in height and having less than 20 square feet of gross floor area (such as pet shelters, playhouses, etc.) shall not be included in calculating lot coverage.

Applicant's Findings: *The application complies with lot coverage requirements in both the RS and RM zones. Each proposed parcel greatly exceeds the minimum requirement. The multiple family development exceeds the open space by more than 10 times the requirement.*

16.27.050 Density.

The number of dwelling units allowed for the purpose of dividing land into lots, determining the number of dwellings in a planned development, or locating several dwellings on mobile homes on the same lot (including mobile home parks) shall conform to the following density limitations. The minimum lot area shall be used to determine allowable density in partitioning. When the number of dwellings allowed includes a fraction of one-half or more the density shall be increased one dwelling unit.

A. UD and RS Zone. One dwelling unit per lot unless provided otherwise in this title; and one dwelling unit per 4,000 square feet of area devoted to residential use (i.e., excluding public streets, and areas in conjunction with nonresidential uses).

C. RM Zone. One dwelling unit per 1,500 square feet of lot area, except 2,000 square feet of lot area for each mobile home in a mobile home park.

Applicant's Findings: *Parcels 1 and 2 will remain with RS zoning. Each parcel will retain one single-family dwelling. Parcel 3 is planned to be zoned RM. The parcel is proposed to be approximately 48,869 square feet which would allow for a 33-unit development. The applicant is proposing 23-units.*

16.27.060 Separation of lot or yard areas.

A. Except as provided in subsection (C) of this section, no portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership from the portion of the lot on which the building containing the dwelling units is located.

B. Except as provided in subsection (C) of this section, no required yard or other open space around an existing building shall be separated in ownership from the lot upon which the building is located.

C. Except as provided in subsection (D) of this section, no lot shall be so reduced or diminished that the required yards or other open space shall be smaller than prescribed by this title.

D. In a planned development, an open space lot or common area owned by the homeowners' association may include the setbacks, yard areas, and other areas, or portions thereof, required by this title around dwellings and other buildings. Any portion of the planned development that is not a designated open space lot or common area may be included in a lot not owned by the homeowners' association provided the lot owner is a member of the homeowners' association.

Applicant's Findings: *The proposal does not include any separation of lot or yard areas which would be required. This criterion is not applicable.*

16.27.070 Yards to be unobstructed.

A "required yard" is the minimum required setback area between a structure or mobile home and a lot line, whether or not additional open space is actually provided between the structure and the lot line. Every required yard or setback area shall be open and unobstructed by buildings, vehicles, or structures from the ground to the sky except for those exceptions permitted in this chapter.

Applicant's Findings: *Each of the required setbacks is planned to be unobstructed, as provided on the site plan included with this application.*

16.27.080 Yards apply only to one building.

No required yard, setback area, or driveway provided around or for any building or structure shall be considered as providing a yard or setback area space for any other building or structure, nor shall any yard, setback area, driveway, or other open space on an adjoining lot be considered as providing a yard or setback area on the lot whereon the building is to be erected.

Applicant's Findings: *Each existing and proposed structure within this development will comply with its own setbacks. The applicant is not counting a yard from one building as meeting the requirement for any other building as required by this section.*

16.27.100 Parking in yards.

A. No parking, loading or storage areas for motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other similar vehicles shall be allowed within vision clearance areas, or within a required yard adjacent to a street except as provided in subsection (B) of this section.

B. Parking, loading or temporary storage of vehicles described in subsection (A) of this section is permitted on driveways crossing from the street lot line to a permitted parking, loading, or storage area within required yards adjacent to streets except as limited in MCC 16.30.130(A).

Applicant's Findings: *Each parcel has designated parking areas which comply with both the RS and RM zones.*

16.27.110 Front yard projections.

The following projections are exempt from all front yard or street setback provisions of this title:

A. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and ornamental features provided they do not project more than 24 inches into the required yard.

B. Covered but unenclosed porches and uncovered porches, neither of which extend more than 10 feet beyond the front walls of the building nor have any floor area more than four feet above grade. In no case shall any such projection come closer than 10 feet from the property line.

C. Uncovered decks attached to residential buildings; provided, that:

1. At least a four-foot landscaped yard is maintained between the front lot line and the deck.
2. The height of the floor of the deck above grade at its point of connection to the building does not exceed 30 inches.
3. The height of the floor of the deck above grade at its furthest extremity from the building does not exceed three feet.
4. The height of any guardrail or perimeter seat does not exceed 44 inches above the floor of the deck at any point.

D. Transit or school bus stop shelters provided they are not located more than five feet from a street right-of-way line and are not located in a vision clearance area.

Applicant's Findings: *No portion of any of the existing or proposed structures will project into the setback. This section is not applicable.*

16.27.120 Side yard projections.

A. Cornices, eaves, gutters, steps and fire escapes when not prohibited by any other ordinance, may project into a required side yard not more than one-third of the width of the required side yard, nor more than three feet in any case.

B. Planter boxes, window bays, greenhouse windows, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, solar collectors, and ornamental features may project not more than 24 inches into a required side yard.

C. Uncovered decks and patios attached to the main building when not elsewhere prohibited and heat pumps may extend to the side lot line when they are three feet or less above grade.

Applicant's Findings: *No portion of any of the existing or proposed structures will project into the setback. This section is not applicable.*

16.27.130 Rear yard projections.

A. Planter boxes, window boxes, greenhouse windows, steps, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters, solar collectors, and ornamental features may project not more than 24 inches into a required rear yard.

B. A fire escape, balcony, outside stairway, cornice, heat pump, or other unenclosed, unroofed projection may project not more than five feet into a required rear yard; provided, that no portion thereof is within six feet of any lot line.

C. Uncovered porches covered but unenclosed porches or patios with roofs having no floor area more than four feet above grade, and which shall not come closer than eight feet from the rear lot line are exempt from this section.

D. No permitted projection into a required rear yard shall extend within 10 feet of the centerline of an alley, or within six feet of an accessory building.

E. Uncovered decks and patios attached to the main building when not elsewhere prohibited may be extended to the rear lot line provided they are four feet or less above grade measured directly beneath the outside edge of the deck or patio.

Applicant's Findings: *No portion of any of the existing or proposed structures will project into the setback. This section is not applicable.*

16.27.150 Height limitations, generally.

Wherever in this title there is expressed a standard for "building height" or a "height limitation" or similar expression, such standards shall apply as well to structures which are not buildings unless such structures are expressly excluded from their application. The highest point of a structure which is attached to a building shall be included in the height of the building unless exempt under MCC 16.27.160 or other specific provision of this title. All heights specified in this title are to be measured from grade as provided in the definition of "height of building" in Chapter 16.49 MCC unless a different method of measure is specified.

Applicant's Findings: *The RS and RM zones each have a height limitation of 35-feet. The existing single-family dwellings being retained on Parcels 1 and 2 do not exceed the height limit. The proposed multiple family development will not exceed 35-feet in height.*

16.27.160 Height exceptions.

A. Transmission towers*, steeples, chimneys, antennas, wind-driven electrical generating equipment and monuments are exempt from the height limitation in the applicable zone provided they do not contain any habitable space. Flag poles equipped to raise and lower the flag are also exempt. These structures are not exempt from use-specific height limitations or the height limitations in an applicable

airport overlay zone. (The height limitations in residential zones include special setbacks for structures identified in this subsection.)

B. Mechanical penthouses, equipment, and appurtenances necessary to the operation or maintenance of the building or structure itself, including ventilators, plumbing and vent stacks, cooling towers, water tanks, panels or collectors for solar energy, and window washing equipment, together with enclosures for any such features, are exempt from all height restrictions, except airport overlay zone height limitations, provided:

1. They do not contain any offices, restrooms, storage rooms, or habitable space;
2. That the sum of the horizontal section of all such projections at the height limit applicable to the building or structure on which they are located does not exceed 60 percent of the horizontal area of the roof of the building on which they are situated; and
3. No such device or enclosure shall project more than 15 feet above the roof, measured vertically from any point on the device or enclosure.

Applicant's Findings: *The applicant is not seeking an exception to the height limitation for either the RS or RM zoned properties. This section is not applicable.*

16.27.200 Vision clearance areas.

The following regulations shall apply to lots at all intersections of streets, alleys, roadways and driveways in order to provide safe visibility for vehicular and pedestrian traffic:

A. Local street intersections shall have vision clearance areas defined by a minimum of 30-foot legs along each street. Where there is stop control at the intersection of local streets, the vision clearance area shall have a minimum of a 10-foot leg on the minor street and a 30-foot leg on the major street.

B. Local streets intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by a minimum of a 10-foot leg along the local street and an 80-foot leg along the collector or arterial street.

C. Private roadways, driveways and public alleys intersecting local streets shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 30-foot leg along the street.

D. Private roadways, driveways, and public alleys intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 50-foot leg along the collector or arterial street.

E. The director of public works may prescribe special dimensions and conditions for the vision clearance area at intersections of driveways, roadways and streets with a public street according to recognized traffic engineering standards, where, due to grade, road alignment and geometry, irregular lot shape, substandard right-of-way width, or vehicle speeds, the vision clearance areas provided in subsections (A), (B), (C), and (D) of this section do not provide for adequate intersection visibility.

F. The "vision clearance area" shall be defined as the area contained by a diagonal line across the corner between points on: a public right-of-way or public easement line; a boundary of a private roadway

easement or 10 feet from the centerline thereof, whichever is greater; a line parallel to and 10 feet from the centerline of a driveway. The points are measured from the intersection of the right-of-way lines or the boundary of a roadway or driveway. If no point exists it shall be measured from the point of intersection of the projection of these lines.

G. Except as provided in subsections (G)(1) and (2) of this section and in MCC 16.27.110, the vision clearance area required by this section shall not contain any planting, fences, walls, structures, or temporary or permanent obstructions to vision, including parked vehicles, exceeding 30 inches in height above the curb level, or street centerline when there is no curb.

1. Not more than two supporting posts or pillars are permitted within a vision clearance area. Posts and pillars shall not be greater than 12 inches in diameter or 12 inches on the diagonal if rectangular.

2. Vision clearance shall be required to a minimum height of seven feet above the curb level or street centerline where there is no curb. Where public buses, trucks, and other service vehicles travel on the minor leg of the intersection, vision clearance shall be required up to a height of 10 feet above the curb level or street centerline where there is no curb.

H. The street classification (local, collector or arterial) shall be as established in the Marion County Comprehensive Plan or applicable city comprehensive plan adopted by Marion County.

I. The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required by this title or any other ordinance.

Applicant's Findings: *None of the vision clearance areas are obstructed by any portion of the proposed or existing development.*

16.27.210 Special street setbacks.

A. The special setbacks in this section are based upon the functional classification of streets as described in the applicable comprehensive plan, including streets outside, but abutting, an urban growth boundary. The purpose of these special setbacks is to permit the eventual expansion or improvement of streets and roads in order to safely accommodate vehicular or pedestrian traffic. The special setback shall be measured from the centerline of the street right-of-way.

B. Except as provided herein structures and paved surfaces shall not be located within the special setbacks specified in subsection (E) of this section. Any portion of a structure lawfully established within a special street setback prior to adoption of this title shall be considered a nonconforming structure. Other yards and setbacks specified adjacent to streets shall be in addition to the special setbacks required by this section. These setback distances shall be measured at right angles to the centerline of the established right-of-way.

C. The zoning administrator may approve placement of signs or light standards, and temporary structures, or paved surfaces upon determination that the county department of public works or Division of State Highways, if applicable, has no objections and provided the property owner signs a written agreement that the owner or his heirs or assigns will, within 45 days after being notified by the county, remove all portions of the structure or signs, light standards, parking or temporary structures

within the special setback. The agreement shall provide that if the owner fails to remove the listed items the county or state may do so at the expense of the owner and the expense shall be a lien against the land and may be collected or foreclosed in the same manner as liens entered in the county lien docket. The agreement shall be recorded by the owner in the applicable deed records. Notice requiring removal shall not be given until the responsible public agency proceeds to widen the street in front of the owner's property or the department of public works determines that the structure is a threat to the public health, safety or welfare. The agreement shall also provide that the owners shall not be entitled to any damages or compensation for the removing of any structure or loss of parking spaces approved under this provision but this stipulation shall not deny the owner the right to compensation for any land or any structures existing prior to the adoption of this title, taken for the widening of the street.

D. The zoning administrator may also approve temporary structures within the street yard required in the applicable zone, exclusive of the vision clearance area, subject to the requirements in subsection (C) of this section.

E. Special Setback Requirements.

Applicant's Findings: *No portion of the existing single-family dwelling is located closer than 20-feet from the front property line. Even if a dedication is required for a 34-foot half width on MacLeay Road, the existing development will still meet the standards.*

16.27.220 Water resources.

Proposed land uses shall not significantly increase the adverse impacts on water resources. Development relying on groundwater as a water supply shall not have significant adverse effect on the groundwater resource. If there is evidence of groundwater limitation in the immediate area evidence shall be required that adequate water can be provided.

Applicant's Findings: *The newly proposed multiple family development is planned to connect to public water services. The proposal shouldn't have any impact on water resources.*

16.27.230 Noise impacts.

Dwellings and places of public assembly shall not be located in a noise impact area, if, according to the Department of Environmental Quality, the noise impacts will be significant and adequate mitigation cannot be provided.

Applicant's Findings: *The applicant is proposing a residential use within a residential area which is adjacent to commercial nodes. The noise impacts of the proposed development, beyond the temporary timeframe of construction, will have a comparable noise impact as the surrounding development.*

16.27.300 Historical sites and structures.

Applicant's Findings: *This section is not applicable to this development or development site.*

16.27.400 Special stream setbacks.

Applicant's Findings: *This section is not applicable to this development or development site.*

16.27.500 Access to public street required.

All uses shall be located on a lot having access to a public street. Access to a public street is defined as a minimum of 20 feet of frontage on one of the following:

A. A public street with a right-of-way not less than 20 feet wide throughout that has been graveled or paved and is open for public use to the subject lot.

B. A roadway not less than 20 feet wide graveled or paved and open for use to the subject lot prior to the effective date of the ordinance codified in this title and connecting with a public street qualifying under subsection (A) of this section.

C. A roadway not less than 20 feet wide with an all-weather surface connecting with a public street qualifying under subsection (A) of this section. Where the subject easement provides access to two or more dwellings or primary uses it must be paved to a width of 12 feet from the subject property to a public street.

D. A lot in a planned development owned by the homeowners' association wherein a roadway is provided connecting a dwelling to a public street, and the roadway is improved as required in the approval of the planned development.

Applicant's Findings: *Each of the existing single-family developments has access to MacLeay Road, which have existed since the 1950's. Proposed Parcel 3 is proposed to have a flag lot configuration with 24-feet of frontage onto MacLeay Road where the new development will take access.*

16.27.510 Limitations on access to roadway.

No new dwelling or primary use, other than farm or forest use, dependent solely on a roadway for access to a street shall be allowed unless:

A. The roadway qualifies as access pursuant to MCC 16.27.500; and

B. The lot upon which the dwelling or use is located was established in accordance with:

1. County approval of a subdivision, partition or planned development prior to May 1, 1977, or in compliance with state law and county zoning regulations prior to the land division being regulated by the county; or

2. County approval of a planned development, or a variance to MCC 17.110.800, after May 1, 1977, and prior to the effective date of the ordinance codified in this title; or

3. County approval of a planned development after the effective date of the ordinance codified in this title; and

4. There are four or less dwellings or independent primary uses (other than farm or forest use without a dwelling) depending solely on the roadway for access to a street.

Applicant's Findings: *MacLeay Road is designated as a minor arterial road according to the City of Salem Transportation System Plan. Driveway access to MacLeay Road will likely be subject to*

Salem Revised Code Chapter 804. The applicant anticipates the City of Salem Public Works Department will comment on the proposal during the open comment period of the land use review to confirm this information.

16.27.530 Refuse and recycling standards for multifamily, commercial and industrial developments.

The provisions in Chapter 8.05 MCC, Solid Waste Management, shall apply to all new development.

Applicant's Findings: *The applicant is proposing a refuse area for the multiple family development which meets the provisions of Chapter 8.05, as shown on the site plan included with this application.*

Chapter 16.29 – Landscaping

16.29.000 Landscaping requirements.

The provisions of this chapter apply to all landscaping required under this title.

16.29.010 Existing development.

Where the construction of, or addition to, a structure or parking area increases the total area of the lot covered by structures, paving, or both by more than 50 percent, the entire lot shall meet the landscaping requirements of this title; otherwise, only landscaping associated with the expansion shall be provided

Applicant's Findings: *Proposed Parcel 3 is planned to be developed with a multiple family townhome style complex which will trigger the 50 percent standard of this section. Landscaping requirements outlined in the RM zone will be followed for the development. The applicant will submit landscaping details at the time of building permit.*

16.29.020 Existing vegetation.

Existing vegetation which is retained as part of the development may be included as part of the landscaping requirement unless prohibited under MCC 16.29.030.

Applicant's Findings: *Existing vegetation on Parcels 1 and 2 will be retained as will the existing single-family dwellings. On Parcel 3, due to site grading, it's likely none of the existing vegetation will remain as part of the new development.*

16.29.030 Prohibited landscaping.

No area required to be landscaped under any provision of this title shall include any artificial trees, plants, or turf, impervious surfacing or any carpeting designed as a visual substitute for lawn or other ground cover. Neither areas devoted to the cultivation of farm crops nor any area used for pasture shall be considered as landscaped for purposes of fulfilling any landscaping requirement under this title.

Applicant's Findings: *The applicant understands no prohibited materials may be used in landscaped areas.*

16.29.060 Parking lot landscaping.

Where more than 20 uncovered parking spaces are provided, an area equal to not less than five percent of the area devoted to driveways and required parking spaces shall be landscaped. The landscaping required in this section shall be within or abutting the area devoted to parking spaces and shall not include, but shall be in addition to, any required yard.

Applicant's Findings: *The site includes more than 20 uncovered parking spaces which triggers the requirement of this section. As shown on the preliminary site plan for the multiple family development, the landscaped areas exceed all of the minimum requirements. This criterion is met.*

16.29.070 Landscaped yards.

Required yards and planting areas near buildings shall be landscaped as provided herein:

A. In residential zones all portions of required yards lying between a street or roadway and the dwelling or between the street or roadway and any sight-obscuring fence or hedge located within the required yard shall be landscaped.

B. In commercial, industrial, P, UD and UT zones landscaping shall be provided in any required yard adjacent to a residential zone and in any required front or street yard, except area used for a driveway. The zoning administrator may also require use of shrubs and trees to reduce visual impact of building walls more than eight feet high and longer than 50 feet in commercial and industrial developments.

C. A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway thereto, and a street or a lot in a residential zone unless a sight-obscuring fence or wall is provided along the lot line.

Applicant's Findings: *The proposed multiple family development complies with this provision to provide landscaping in yards. Sections A and C above apply to the development and are met by the applicant's proposal. The landscaping provided will be reviewed more closely at the time of building permit submittal.*

16.29.080 Installation and design requirements.

A. Installation of required landscaping shall be a condition of issuance of a determination. Required landscaping shall be planted and installed prior to occupancy of any structure or establishment of a use except a single-family dwelling. Landscaping required on a lot occupied by a single-family dwelling shall be provided within two years of occupancy of the dwelling.

B. Plantings within landscaped areas shall be spaced so that the plants will achieve, within five growing seasons, ground coverage of at least 75 percent of the landscaped area. Landscaped areas not occupied by water shall be covered by organic or rock material.

C. Except in vision clearance areas and special setback areas, areas required to be landscaped in commercial and industrial zones between public streets and parking spaces and driveways shall be landscaped with berms and/or planting that will screen the parking area from view from the public.

Applicant's Findings: *The applicant understands the landscaping is required to be installed for the multiple family development prior to being granted occupancy. The plants to be used within the landscaped areas will be installed according to standards to which they will achieve 75 percent ground coverage of the landscaped areas. Areas not occupied by plants will be mulched or rocked as required by this section. Section C above is not applicable within the RM zone.*

16.29.090 Landscaping plan.

A landscape plan may be required as a condition of land use approval and is required for all landscaping required under MCC 16.29.080(C). The zoning administrator shall determine if the plan meets the requirements of this title before issuing a determination of conformance. A landscape plan shall be drawn to workable scale showing all plantings by common names together with their size at time of planting or expected coverage within five growing seasons, the location and type of ground cover, the size and configuration of other landscaping features, and show the areas to be watered by an irrigation system.

Applicant's Findings: *The applicant understands a landscape plan may be required as a condition of approval for this application. If required as a condition of approval, a landscape plan will be provided at the time of building permit submittal.*

Chapter 16.30 – Off Street Parking and Loading

16.30.000 Parking and loading areas required.

A. Off-street parking areas and off-street loading areas meeting the applicable requirements of this chapter shall be provided and maintained:

1. For each separate use in any building or structure erected after the adoption of this title.
2. For additional seating capacity, floor area, lodging rooms, or dwelling units added to any existing structure or lot.
3. When the use of the structure or a portion thereof is changed if the new use would require additional parking areas and off-street loading areas under the provisions of this title.

B. Except as provided in subsection (C) of this section where a structure is added to, or a portion thereof changed in use such that additional parking or loading is required, only so many additional spaces as would be required under MCC 16.30.170 for the area added or changed in use need be provided.

C. When a lot or structure as used prior to a structural addition or change of use did not have the number of parking and loading spaces, or the spaces were not improved as required under the applicable regulations and the deficiency is not lawfully nonconforming, parking and loading facilities meeting the requirements of this title shall be required to eliminate the deficiency.

Applicant's Findings: *This section is applicable to the new multiple family development. Parking has been provided as required in this section which will be demonstrated throughout this narrative and shown on the attached site plan.*

16.30.010 Reduction of parking area prohibited – Exception.

Off-street parking and loading areas which existed on May 30, 1990, or which are provided as required by this chapter shall be maintained, or equivalent parking and loading areas provided; except that:

A. If this title reduces the number of required off-street parking or loading spaces, an affected use may diminish its parking and loading area to the new requirements.

B. When adjacent to transit service, the number of minimum required parking spaces may be reduced by up to 10 percent to redevelop the existing parking area for transit related uses including transit stops, pullouts and shelters, park and ride lots, transit-oriented developments and similar facilities where appropriate.

Applicant's Findings: *The development requires two parking spaces per dwelling unit. There are 23-units proposed therefore, 46 vehicle parking spaces are required. The development includes 47 spaces and no reduction to the standard is being requested by the applicant.*

16.30.020 Location.

A. Off-street parking and loading areas required by this title shall be provided on the same lot with the use except that:

1. In any residential zone, automobile parking spaces for dwellings and other uses permitted in a residential zone may be located on another lot if the lot is within 200 feet of the lot with the primary use.
2. In nonresidential zones the required parking area may be located off the site of the primary use or structure if it is within 500 feet of such site.

B. Off-street parking is incidental to the use which it serves. As such, it shall be located in a zone appropriate to that use, or where a public parking area is a specific permitted use.

Applicant's Findings: *The parking proposed for the multiple family development is included on the same parcel as the development. This section is not applicable.*

16.30.030 Fractional measurements.

When calculations for determining the number of required off-street parking or loading spaces result in a requirement of fractional space, any fraction of a space less than one-half shall be disregarded, and a fraction of one-half or greater shall be counted as one full space.

Applicant's Findings: *The applicant is proposing a 23-unit multiple family development which requires two vehicle parking spaces per unit. There is no fractional measurement to consider. This criterion is not applicable.*

16.30.040 Ownership of parking and loading areas.

Except as provided for joint use parking in MCC 16.30.070, the land to be provided for off-street parking and loading areas, including driveways, aisles, and maneuvering areas, shall be owned in fee title by the owner of the property served by the parking; or in commercial and industrial zones the parking may be

provided by a permanent and irrevocable easement appurtenant to the property served by the parking; or be leased for a minimum term of five years; provided, that upon expiration or termination of the lease, the parking requirements of this title shall otherwise be fully met within 30 days or the use discontinued until such requirements are met.

Applicant's Findings: *The parking for the development will be located onsite and ownership cannot be conveyed to anyone else. The development provides all of the required parking and no joint parking agreements will be necessary to serve the development. This criterion is met.*

16.30.050 Off-street vehicle parking requirements.

A. Except as otherwise specifically provided in this title, off-street parking spaces shall be provided in amounts not less than those set forth in MCC 16.30.170.

B. For any proposed use not listed in MCC 16.30.170, the zoning administrator shall determine the parking space requirement for the most nearly similar use listed in MCC 16.30.170 with regard to traffic generation.

Applicant's Findings: *The minimum number of parking spaces required is two per dwelling unit. The proposal includes 23-units making the minimum number of parking spaces 46. The proposal includes 47 parking spaces which meets the requirement.*

16.30.060 Off-street bicycle parking requirements.

In the Salem/Keizer urban growth boundary, bicycle parking shall be provided for all new multiple-family residential developments (four units or more), commercial, industrial and institutional uses, in the following manner:

A. The minimum number of required bicycle parking spaces are listed in MCC 16.30.170.

B. Bicycle parking spaces shall be a minimum of six feet long and two feet wide and provide a minimum four-foot access aisle unless spaces are provided to store the bicycle in a hanging position. Bicycle racks shall be provided as outlined in sub-section (C) of this section.

C. Bicycle racks must allow the use of the bicyclist's own locking device.

D. Bicycle parking shall be provided within a convenient distance of, and clearly visible from the primary building entrance. This parking shall not be further than 50 feet from the public entrance to the building.

E. Direct access to the public right-of-way, with access ramps if necessary, and pedestrian access from the bicycle parking to the building entrance must be provided.

F. The following uses are exempted from the bicycle parking requirements:

1. Seasonal uses, such as fireworks stands and Christmas tree sales;
2. Drive-in theaters;
3. Self-storage facilities.

Applicant's Findings: *The development must include .1 bicycle spaces per dwelling unit or 4 spaces, whichever is greater. The proposal includes 23 dwelling units which will trigger the requirement of 4 bicycle parking spaces. The bicycle parking will be provided in conformance with the development standards set forth in this section. The applicant will provide details regarding bicycle parking at the time of building permit submittal.*

16.30.070 Joint use of parking areas.

The zoning administrator may authorize the joint use of parking areas by the following uses or activities as a conditional use in every zone under the following conditions:

A. Up to 50 percent of the off-street parking spaces required by this title for a church, auditorium in a school, theater, bowling alley, dance hall, eating or drinking establishment may be satisfied by the off-street parking spaces provided by uses occupied only during the daytime on weekdays.

B. Up to 50 percent of the off-street parking spaces required by this title for any daytime use may be satisfied by the parking spaces provided for nighttime or Sunday uses pursuant to MCC 16.30.080.

C. All jointly used spaces shall be located with relation to all uses relying on such spaces within the applicable distance set forth in MCC 16.30.020.

D. The zoning administrator must find that there is no substantial conflict in the principal operating hours of the buildings or uses for which joint use of off-street parking facilities is proposed.

E. A properly drawn legal instrument executed by the parties concerned for joint use of off-street parking facilities shall be filed with the zoning administrator and recorded. Joint use parking privilege shall continue in effect only so long as such an instrument, binding on all parties, remains in force. If such instrument becomes legally ineffective, then parking shall be provided as otherwise required in this title within 60 days.

Applicant's Findings: *Joint parking is not being proposed. This section is not applicable.*

16.30.080 Classification of uses for purposes of joint use parking.

A. The following uses are considered as daytime uses for purposes of MCC 16.30.070: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings, and other similar primarily daytime uses as determined by the zoning administrator.

B. The following uses are considered nighttime or Sunday uses for purposes of MCC 16.30.070: auditoriums incidental to a public or private school, churches, bowling alleys, dance halls, theaters, drinking and eating establishments, and other similar primarily nighttime uses as determined by the zoning administrator.

Applicant's Findings: *Joint parking is not being proposed. This section is not applicable.*

16.30.090 Construction of parking facility – Notification to the DEQ.

Prior to the construction of any vehicle parking facility for the use of 250 or more motor vehicles, or a parking facility that consists of two or more levels, notification shall be made by the developer to the State of Oregon Department of Environmental Quality.

Applicant's Findings: *The applicant is not proposing parking for 250 or more motor vehicles nor does the proposal include a parking area with two or more levels. Notification to the State of Oregon Department of Environmental Quality is not required.*

16.30.100 Satisfaction of off-street parking requirements through alternative modes of transportation.

Notwithstanding any other provision of this code, off-street parking requirements for nonresidential uses may be satisfied by implementation of a plan whereby the owner or any lessee will provide for or will increase the use of alternate modes of transportation and thereby decrease the need for off-street parking. Such a plan shall be first approved by the zoning administrator as a conditional use. Final approval shall be conditioned upon full, operational implementation of the plan, including any required payments, within such period as may be prescribed.

Applicant's Findings: *The property is located along the Core Network for Cherriots, but the applicant is providing the minimum parking required and does not seek to satisfy the parking requirement through alternative modes of transportation. This section is not applicable.*

16.30.110 Small car parking.

A. Within the Salem/Keizer urban growth boundary:

1. Small car parking spaces may satisfy up to 75 percent of the spaces required by MCC 16.30.170.
2. A small car parking and loading space and maneuvering area size shall be as provided in MCC 16.30.190.
3. Each small car space shall be striped on all four sides by a four-inch painted line, except those sides which are adjacent to the edge of the paved area, or are adjacent to a wall or curb.
4. Small car parking areas shall be signed as "Small Car Parking Only." Signs shall be prominently displayed within or immediately adjacent to each small car parking space or clearly indicated area of two or more such spaces and shall be composed of letters not less than four inches in height.
5. Aisles serving small car spaces only shall have a minimum width of 22 feet. Aisles serving both small and standard car spaces shall have a minimum width of 24 feet.

B. Within other urban growth boundaries:

1. Small car parking spaces may satisfy up to 30 percent of the spaces required by MCC 16.30.170.

2. A small car parking and loading space and maneuvering area size shall be as provided in MCC 16.30.190.

3. Small car parking spaces in excess of the requirements of this chapter may be provided as long as all such spaces are marked "Compact Only."

Applicant's Findings: *The subject site falls within the City of Salem urban growth boundary which allows 75 percent of the parking to be compact. The proposal meets this requirement.*

16.30.120 Carpool and van pool parking.

Within Salem/Keizer urban growth boundary, new nonresidential developments with 60 or more required parking spaces shall designate at least five percent of the total parking spaces for carpool or van pool parking. These designated carpool and van pool parking spaces shall be preferential in that they shall be the closest employee parking spaces to the building entrance normally used by employees, except for any handicapped parking provided. The carpool/van pool spaces shall be clearly marked "Reserved – Carpool/Van Pool Only" with hours of use.

Applicant's Findings: *The development does not require carpool or vanpool parking as not more than 60 parking spaces are required. This criterion is not applicable.*

16.30.130 Off-street loading.

A. Except as otherwise specifically provided in this title, off-street loading shall be provided in amounts not less than those set forth in MCC 16.30.180.

B. An off-street parking area meeting the requirements of this chapter may also be used for loading when the use does not require a delivery vehicle which exceeds a combined vehicle and load rating of 8,000 pounds, and when the parking area is within 25 feet of the building or use which it serves.

Applicant's Findings: *Less than 49 dwelling units are proposed which eliminates the requirement to provide off-street loading. These criteria are not applicable.*

16.30.140 Parking and loading area development requirements.

All parking and loading areas required under this title, except those for a single-family dwelling on a lot, shall be developed and maintained as follows:

A. Location on Site. Required yards abutting a street shall not be used for such areas unless otherwise specifically permitted in this title (see MCC 16.25.200(D)). Side and rear yards that do not abut a street may be used for such areas when developed and maintained as required in this title.

B. Surfacing. Except as provided in MCC 16.30.160 or as an approved conditional use, all parking and loading areas and driveways thereto shall be paved to provide an all-weather surface with asphalt concrete, Portland cement concrete, clay bricks or concrete blocks. The type of surfacing shall be approved by the Marion County department of public works. Parking and loading areas shall be adequately designed, graded, and drained. Drainage connections to a public storm drain system shall be approved by the Marion County department of public works. A storm water detention system conforming to the Marion County department of public works' standards may be required.

C. Bumper Guards or Wheel Barriers. Bumper guards or wheel barriers shall be so installed that no portion of a vehicle will project into a public right-of-way or over adjoining property. The area beyond the wheel barriers or bumper guards shall be surfaced as required in subsection (B) of this section or landscaped.

D. Size of Parking Spaces and Maneuvering Areas. The parking area, each parking space and all maneuvering areas shall be of sufficient size and all curves and corners of sufficient radius as determined by the zoning administrator to permit the safe operation of a standard size automobile subject to the following additional minimum requirements:

1. Parking and loading space and maneuvering area size shall be as provided in MCC 16.30.190 and 16.30.200.
2. Maximum 10 percent grade for parking spaces and 15 percent for aisles.
3. Directional signs and pavement marking shall be used to control vehicle movement in parking area.

E. Access. All parking or loading areas shall be served with either separate ingress and egress driveways, or with an adequate turnaround area that is always available and usable. A current driveway permit from the Marion County department of public works is required for all access driveway installation or changes in use.

F. Lighting. Parking or loading areas that will be used at nighttime shall be lighted. Outdoor lighting shall be directed away from any adjacent residential zoned or used property and shall not cast a glare onto moving vehicles on any public street.

G. Landscaping. Landscaping shall be provided as required in MCC 16.29.060.

H. Underground Parking. Notwithstanding any other provision of this title, parking areas in all zones other than the UT zone may be located underground beneath required yards provided no portion of the structure enclosing the parking area projects into the required yard, and all required yards beneath which parking is located are landscaped as provided in MCC 16.29.070.

I. Plans for all parking and loading areas required under this chapter at a workable scale shall be submitted to the zoning administrator for approval prior to issuance of a determination of conformance; or, if no building permit is required, at the time of application for a driveway permit; or, if no such permit is required, prior to commencing any paving or use of the parking or loading area.

Applicant's Findings: *The applicant is proposing a multiple family development on newly created Parcel 3, which triggers the requirements for parking and loading development outlined in this section. The parking areas are setback from the street more than 120-feet and will not impede the setbacks abutting MacLeay Road. The parking areas, as shown on the included site plan, a portion of the parking area extends into the rear yard but will be maintained as required in this section meeting the criteria. The parking areas and drive aisles will be hard surfaced as provided in subsection B above. At this stage of the project, a design is not available for onsite infrastructure and grading. During the building permit process, the applicant will submit details regarding the surfacing material for the vehicle parking areas which includes stormwater*

detention and draining to be approved by Marion County staff. The development doesn't require bumper guards or wheel barriers as the parking areas are not located in areas where vehicles might project across property lines. As shown, the parking is planned to be situated against an elevated curb which will prevent the vehicles from being parked too close to the buildings. The parking spaces have been designed of sufficient size at 90-degree angles. The parking areas will be graded, and details of grading will be provided when the applicant submits for building permit. The parking area is planned to be served by a driveway which leads to MacLeay Road. There is sufficient size for a turn-around which will not be obstructed by parked vehicles. Any parking lot lighting provided will adhere to the requirements of subsection F above and will not cast light directly to adjacent residential zoned properties. As stated throughout this narrative, landscaping is planned to be robust and will, at a minimum, meet the standards as required in MCC 16.29.060. No underground parking is being proposed making subsection H above inapplicable to this development. The project will require building permits which will be reviewed by planning staff to determine conformance with these requirements. The applicant understands the development standards of vehicle parking and loading areas and is not seeking to adjust any of the standards listed herein.

16.30.150 Driveway development standards.

All driveways providing access to parking spaces and loading areas required under this title, including those for a single-family dwelling on a lot, shall conform to the following development standards:

A. Grade. The maximum difference between the curblines and finished floor level of the garage or carport for driveways serving individual lots shall not exceed 15 percent, provided the director of public works may permit a difference in elevation not exceeding a 20 percent slope; provided, that there is no slope exceeding 25 percent between any two points in the driveway, and that adequate vertical curves or ramps are used in the driveway to assure usability by a standard size automobile.

B. Surfacing. The surface of driveways shall be pavement; provided, that driveways to a single-family dwelling shall be paved if the street is curbed.

C. Drainage. All driveways shall be adequately drained and the provisions for drainage shall be approved by the director of public works.

D. Street Access. The entries and exits of driveways on a public street shall conform to the provisions of the driveway permit required by the Marion County department of public works as well as the specific provisions of this title.

E. Turnarounds. If a driveway serving more than two parking or loading spaces serving a use other than a single-family dwelling has only one point of access to a public street, or does not loop to a single street access, a turnaround area approved by the director of public works shall be provided.

F. Width of Driveways. Driveway width shall be as specified by the director of public works through the driveway permit process.

G. "No Parking" Signs. Where a driveway is an integral part of a parking, loading or vehicle storage area and not simply a means of access to such area, one "no parking" sign for every 60 feet of length of the driveway shall be erected, but in no event shall less than two signs be erected.

Applicant's Findings: *The applicant is proposing a multiple family development on newly created Parcel 3, which requires driveway access to the parking and loading areas. The driveway will be graded in accordance with the requirements of this section and details of grading will be provided when the applicant submits for building permit. At this stage of the project, a design is not available for driveway grading. During the building permit process, the applicant will submit details regarding the surfacing material for the driveway which will demonstrate compliance with the provisions of this section. Because MacLeay Road is under the City of Salem's jurisdiction, the applicant anticipates having to conform to the requirements of Salem Revised Code Chapter 804 for driveways leading to a minor arterial street. There is sufficient size for a turn-around which will not be obstructed by parked vehicles. Based on requirements of the Marion County Fire Department, the minimum driveway width is 22-feet, and the development site is providing 24-feet with 22-feet of pavement. The applicant understands the director of public works will review the proposal during the building permit process. If the director believes no parking signs will be necessary along the driveway, the applicant will install them in accordance with subsection G above.*

16.30.160 Temporary and seasonal gravel-surfaced parking and loading areas.

Applicant's Findings: *The applicant isn't proposing any temporary or seasonal parking for this development. This section is not applicable to the proposal.*

16.30.170 Minimum parking space requirements.

Applicant's Findings: *The proposal includes 23 multiple family dwelling units which requires a minimum of two vehicle parking spaces per dwelling unit and a minimum of four bicycle parking spaces. As shown on the preliminary plan for the multiple family development component of the proposal, 46 vehicle parking spaces are planned to be provided as required and four bicycle parking spaces are planned to be provided which meets the requirement of this section.*

16.30.180 Minimum loading space requirements.

Applicant's Findings: *The proposal includes 23 multiple family dwelling units. In accordance with this section of code, no loading spaces are required to be provided.*

16.30.190 Parking space design standards.

A. Parking spaces required by this title shall conform to the design standards herein. No portion of a parking space shall be located in a required landscaped yard.

B. Width and Length of Parking Spaces. Parking spaces shall be nine feet wide and 17 feet long except as follows:

1. Small car parking spaces shall be eight feet wide and 15 feet long.

2. Where a landscaped area, fence or wall is alongside a parking space, the space shall be 10 feet wide, except a small car space shall be 8.5 feet wide.

Applicant's Findings: *The development site provides 75 percent small car, or compact, parking for the proposed development. The compact parking has been designed to these standards.*

16.30.200 Minimum driveway widths.

Applicant's Findings: *The proposal provides the minimum driveway width which, in this case is 22-feet.*

16.30.210 Outdoor storage area surfacing.

Applicant's Findings: *The zone change application is to change a portion of the property from RS (Single-Family Residential) to RM (Multiple Family Residential). This section of code is not applicable to the proposed development.*

16.30.220 Lighting of outdoor storage or parking areas.

Lighting of outdoor storage or parking areas shall be directed away from adjacent residential properties and public streets.

Applicant's Findings: *The proposal does not include outdoor storage. However, it appears the parking area will require lighting which will be provided in accordance with this section.*

Section 8: Findings Applicable to Partition

Chapter 16.33 – Subdivision and Partition Requirements

Article I. General Regulations

16.33.040 Considerations for approval or denial.

When considering a subdivision or partitioning plan, the commission, director, hearings officer or board, when it exercises its authority pursuant to Chapter 16.37 MCC, shall consider whether or not it is in accordance with the adopted ordinances, comprehensive plans, and land development policies of Marion County. In reviewing an application, the commission, director, hearings officer or board may prescribe conditions or make changes or modifications to the subdivision or partitioning plan to bring them into compliance with any applicable ordinances or regulations.

Applicant's Findings: *The applicant is aware of and understands the authority that the Hearings Officer or Board of Commissioners have over the review of this application submittal. The applicant is proposing a consolidated Comprehensive Plan amendment, zone change, partition, and adjustment applications. The applicant has provided a written narrative and preliminary site plan which demonstrate compliance with each of the development standards, with the exception of the two adjustments being sought for a reduction to side yard setbacks and the dimension of the play areas proposed for the multiple family development portion of this proposal. The review authority will find the proposed three parcel partition is approvable without the imposition of additional conditions.*

16.33.060 Approval required before creating street to partition land.

No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the commission, director, hearings officer, or board.

Applicant's Findings: *The proposed partition does not include the creation of a new street but rather provides frontages for all three parcels onto an existing minor arterial street, Macleay Road SE. This criterion is not applicable.*

16.33.080 Prohibition of sale or transfers of lots prior to recording of plat.

A. No person shall negotiate to sell any lot in any subdivision until a tentative plan of the subdivision has been approved.

B. No person shall dispose of, transfer, sell, or agree, offer or negotiate to sell any lot in any subdivision by reference to or exhibition or other use of a plat of such subdivision that has been so recorded.

Applicant's Findings: *The applicant understands that conveying properties via deed prior to the recordation of the partition plat would be in direct violation of both this code and Oregon Revised Statute. The properties will remain within the current ownership until the partition plat is recorded by the Marion County Surveyor.*

16.33.140 Property line adjustments.

The following requirements shall apply to all property line adjustments:

A. Regardless of the size of the adjustment, when a property line to be adjusted is part of a division of land previously approved by the Marion County planning director, planning commission, hearings officer, or board of commissioners it must be reviewed by the planning director.

B. Except as provided in subsection (A) of this section, no approval is necessary for property line adjustments in the RL (limited multiple-family residential), RM (multiple-family residential), CO (commercial office), CR (commercial retail), CG (commercial general), HC (highway commercial), IC (industrial commercial), IP (industrial park), IG (general industrial) or IH (heavy industrial) zones.

C. Except as provided in subsections (A) and (B) of this section, all property line adjustments shall require approval under the partitioning procedure if the adjustment exceeds 10 percent of the total land area of the smallest affected parcel.

D. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the replat process specified in ORS 92.180 through 92.190.

E. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.

Applicant's Findings: *The proposal does not include a property line adjustment. These criteria are not applicable to this application.*

Article II. Roads, Streets and Easements

16.33.160 Engineering standards and requirements.

Engineering standards and requirements, including but not limited to streets, drainage, access, easements, and thoroughfare improvements, shall be those currently approved by the Marion County department of public works.

Applicant's Findings: *Any easements necessary for drainage, access, or other infrastructure maintenance will be provided on the partition plat. Legal descriptions prepared by the applicant's surveyor will be provided for review and will meet the requirements of Marion County.*

16.33.180 Deeding of right-of-way.

No person shall dedicate for public use, or deed to Marion County, a parcel of land which is used or proposed to be used as access without first obtaining the approval of the board or its designee and delivering the deed to the board for its endorsement. No dedication is effective unless the property is accepted by the board or its designee and recorded with the Marion County clerk's office.

Applicant's Findings: *The development site has frontage along MacLeay Road SE. According to the City of Salem's Transportation System Plan, MacLeay Road SE is designated as a minor arterial which requires a 72-foot improvement, or a 36-foot half width improvement. If a dedication of right-of-way is required for this project, the dedication will comply with this section and legal descriptions will be prepared by the applicant's surveyor.*

16.33.190 Connectivity.

Applicants submitting preliminary development plans shall provide for local streets oriented to or connecting with existing or planned streets, existing or planned schools, parks, shopping areas, transit stops, and employment centers located within one-half mile of the development. Applicants shall also provide for extension of local streets to adjoining major undeveloped properties and eventual connection with the existing street system. Connections to existing or planned streets and undeveloped properties along the border of the parcel shall be provided at no greater than 600-foot intervals, unless the planning director, or designee, determines that one or more of the following conditions exist:

- A. Physical or topographic conditions make a street or accessway connection impractical. Such conditions include, but are not limited to, freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided; or
- B. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.

Applicant's Findings: *The proposed partition does not include the creation of any new streets but rather one new connection to MacLeay Road SE from proposed Parcel 3. Connections to adjoining properties is not warranted as this is an infill development which is taking place in an area that was originally developed in the 1950's. There are no large units of land which would*

require a connection to this development. The existing network of streets is robust and well established and provides adequate connections to surrounding areas as required by this section.

16.33.200 Dead-end streets.

When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision without a turnaround. In all other cases, dead-end streets shall have a turnaround with a configuration approved by the Marion County department of public works.

Applicant's Findings: *The proposal does not include the creation of any new streets or intersections. This criterion is not applicable to the partition.*

16.33.220 Radius at street intersections.

The property line radius at street intersections shall be to Marion County department of public works' standards.

Applicant's Findings: *The proposal does not include the creation of any new streets or intersections. This criterion is not applicable to the partition.*

16.33.240 Street grades.

No street grade shall be in excess of 12 percent unless the commission or hearings officer finds that, because of topographic conditions, a steeper grade is necessary. The commission or hearings officer shall require a written statement from the director of public works indicating approval of any street grade that exceeds 12 percent.

Applicant's Findings: *The proposal does not include the creation of any new streets or intersections. This criterion is not applicable to the partition.*

16.33.260 Dedication of right-of-way.

If land to be subdivided or partitioned will cause the termination of a right-of-way of less than standard width, the applicant shall dedicate sufficient land to provide for a cul-de-sac or to increase the half (or halves) of right-of-way bordering the subject parcel to one-half of the standard width. Unless otherwise specified for an individual street in this title, standard right-of-way widths are subject to the standards of the Marion County department of public works.

Applicant's Findings: *The development site has frontage along MacLeay Road SE. According to the City of Salem's Transportation System Plan, MacLeay Road SE is designated as a minor arterial which requires a 72-foot improvement, or a 36-foot half width improvement. If a dedication of right-of-way is required for this project, the dedication will comply with this section and legal descriptions will be prepared by the applicant's surveyor. Because the partition isn't proposing and does not require extensions of street terminuses, no other dedications for half street or cul-de-sac improvements are required.*

16.33.280 Additional right-of-way widths.

Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way or slope easement may be required to accommodate the cut and fill.

Applicant's Findings: *The onsite topography ranges from 0 to 3 percent slopes and the topography of the surrounding areas are similarly as flat. It is not anticipated additional right-of-way dedication will be required for proper grading of streets. The applicant will provide a grading plan as part of the building permit set which will be submitted to Marion County for review.*

16.33.290 Performance standards.

Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this title, the applicant shall provide one of the following:

A. A surety bond executed by a surety company authorized to transact business in the state of Oregon, in an amount equal to 100 percent of the construction cost of the required improvements, as verified by the county.

B. A verified deposit with a responsible escrow agent or trust company of cash or negotiable bonds in an amount equal to 100 percent of the construction costs of the required improvements, together with an agreement that the deposit may be disbursed only upon county approval. The agreement shall include a provision that the county shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the county engineer following an inspection by the county engineer or the engineer's authorized representative.

C. An irrevocable letter of credit from one or more financial or lending institutions pledging that funds equal to 100 percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements.

Regardless of the option chosen above no building permits for any structures within the subdivision will be issued until all improvements have been completed by the applicant. Or, in the event the applicant fails to complete all improvements, the county may estimate the cost of completing any required improvement, call on the bond or deposit for the funds necessary to complete the improvement, and complete the improvement to the extent of the funds obtained upon call of the bond or deposit. If the amount obtained from the bond or deposit is insufficient to complete the improvement, the county may either hold the collected funds until additional funds are authorized for the improvement or expend the collected funds on a revised improvement or on a portion of the improvement as determined reasonable by the director of public works. Following final inspection, if the improvement is complete and the amount of the bond or deposit exceeds the actual cost to the county of completing the improvement, the remainder shall be released.

D. Maintenance Bonds. The applicant shall provide a maintenance bond in a form approved by the office of county legal counsel equal to 40 percent of the construction cost of all required improvements. The applicant shall provide the bond within 30 days after final review of the required improvements. The bond shall remain in effect for one year after the completion of construction of all required

improvements. The purpose of the bond is to guarantee applicant's obligation to maintain all required improvements for a period of one year after completion of construction of all required improvements. After the expiration of the one-year period, any remaining balance on the bond shall be released. The bond shall include a provision stating that, in the event the county must take legal action to recover on this bond, and it prevails at trial or on appeal, the county shall be entitled to recover its reasonable attorneys' fees and its costs and disbursements. Nonpayment of the bond will not invalidate applicant's obligations under the bond.

Applicant's Findings: *The applicant does not anticipate performance bonds will be necessary for this project. However, if Marion County determines otherwise, the applicant understands the provisions above will be applicable.*

16.33.300 Utility easements.

Utility easements meeting the approval to the standards of the affected utilities shall be provided to all newly created lots.

Applicant's Findings: *Any required utility easements for the three newly created parcels will be provided and shown on the partition plat. The applicant's surveyor will provide legal descriptions for each required easement.*

16.33.320 Street or road improvements.

All street or road improvements including pavement, curbs, sidewalks, signage, and surface drainage shall be in accordance with the specifications and standards prescribed by the director of public works. Subdivision plats shall not have final approval until such time as the director of public works, or his/her designee, is satisfied that the street improvements will be completed in accordance with the specifications and standards set forth by the Marion County department of public works.

No building permits within a subdivision or partition shall be issued until the director of public works, or his/her designee, approves that the improvements have been completed or sufficient improvement agreements and financial guarantees have been recorded.

Applicant's Findings: *The partition does not include the creation of a new road. There may be a minor improvement required along the frontage of MacLeay Road SE. Any improvements required along the street frontage will be constructed to standards.*

16.33.340 Private streets.

In the event the subdivider or developer elects to provide private streets or thoroughfares, they shall be maintained by the homeowners' association and a maintenance agreement shall be submitted to Marion County for review and approval prior to recording the final plat.

Applicant's Findings: *Private street are not being proposed. This section is not applicable to the development proposal.*

Article III. Blocks and Lots

16.33.400 Lot size.

All lots approved under this chapter shall have sufficient area to be consistent with the intent of the Comprehensive Plan and to provide adequate area for the intended structures and uses, all setbacks, access and spacing required for water supply and wastewater disposal. Lots to be served by public or privately owned sewage collection and disposal system must meet the requirements and have approval of the Oregon State Department of Environmental Quality before being recorded or sold. State regulations, soil types, drainage, terrain, and location may be included as part of the criteria used by the state or county in determining appropriate lot sizes for lots using subsurface disposal of sewage. Lot size and dimensions shall be as prescribed in the corresponding zone.

Applicant's Findings: *The applicant has included findings within this narrative demonstrating that the proposed partition provides sufficient area to be consistent with the Comprehensive Plan and provides enough square footage to adequately accommodate both the existing and newly proposed development. The applicant is seeking a minor adjustment to setbacks from the existing single-family dwellings and findings to the applicable adjustment criteria are included in Section 9 of this narrative. Each parcel is planned to be served by public infrastructure which is available along the frontage. Onsite sewage disposal is not proposed, and it's not anticipated the Oregon State Department of Environmental Quality will have involvement with the project as proposed.*

16.33.420 Curved front lot lines.

When front lot lines are on a curve or arc, the frontline distance shall be indicated on the final plat by bearing and chord distance.

Applicant's Findings: *None of the parcels include curved or arced front lot lines. This criterion is not applicable.*

16.33.440 Lot line.

Side lot lines shall be as close to right angles to the front street line as practicable. Unless otherwise approved, rear lot lines shall be not less than one-half the width of the front lot lines.

Applicant's Findings: *The proposed configuration of parcels meets the requirements of this section. Each proposed parcel meets the minimum required lot width and depth for the existing and proposed zoning. This criterion is met.*

Article IV. Sewage, Water and Utilities

16.33.460 Sewage disposal.

All lots or parcels shall be served by an authorized sewage disposal system. Subsurface sewage disposal for individual parcels shall meet the requirements of the Department of Environmental Quality (DEQ) and the Marion County building inspection division. Those subsurface sewage systems that are used by a community, sanitary district, industry, or incorporated area must be authorized by the Department of Environmental Quality (DEQ) via the Marion County building inspection division. Installation and

maintenance shall be in accordance with the Department of Environmental Quality's regulations and requirements. The commission, director, or hearings officer may require connection to an existing sewage collection and treatment system regardless of lot suitability for subsurface disposal if the commission, director, or hearings officer deems it necessary and provided the connection is available.

Applicant's Findings: *The property is able to be served by City of Salem sanitary sewer. It is anticipated the City of Salem Public Works department will comment on this proposal and provide information relating to requirements for connection to their infrastructure. The applicant is working with a Civil Engineer who will work with City Staff to design utility connections which meet the City's requirements.*

16.33.480 Water supply.

All lots or parcels shall be served by an authorized public or private water supply system.

A. Public or Private Systems. Public or private systems shall meet the requirements of the Oregon State Health Division with reference to chemical and bacteriological quality. In addition, such systems must meet the quantity, storage, and distribution system requirements of the State Health Division and the operator of the water system.

Applicant's Findings: *Suburban East Salem Water provides water service to the subject properties and has capacity to serve the proposed development. As stated previously regarding the sanitary sewer connections, the applicant's engineer will work with the authority to design the connections to their standards.*

16.33.500 Sewer and water lines and connections.

All proposed subdivisions within established or proposed urbanizing areas of municipalities, service districts and other incorporated communities, where, upon concurrence from the municipality, district, or incorporated community that public sewer and water services are imminent, shall be developed with water and sewer lines that meet the specifications of the director of the Marion County department of public works.

Applicant's Findings: *As stated, the development site has access to both City of Salem and Suburban East Salem Water District. The utility lines and connections will meet the specifications of each municipality.*

16.33.520 Underground utilities.

All permanent utility service to lots in a subdivision within an established urban growth boundary shall be provided from underground facilities and no overhead utility service to a subdivision shall be permitted. The subdivider shall be responsible for complying with the requirements of this section and shall:

A. Obtain a permit from the director of public works for the placement of all underground utilities.

B. Make all necessary arrangements with utility companies and other persons or corporations affected by the installation of such underground lines and facilities in accordance with the rules and regulations of the public utility commissioner of the state of Oregon.

Applicant's Findings: *The applicant understands that because the development site falls within the City of Salem's Urban Growth Boundary, underground utilities will be required. This standard can be met by the proposal.*

16.33.540 Underground utilities easements.

Underground easements for utilities and overhead utility facilities shall be provided by the subdivider and set forth on the final plat. Each easement shall be a minimum of 10 feet in width except on the perimeter of the subdivision where the minimum width shall be five feet and, when possible, such easement shall be centered on or bordering a lot line. The subdivider shall provide five-foot utility easements on both sides of all road or street rights-of-way of 60 feet or less.

Applicant's Findings: *The applicant's surveyor will provide legal descriptions for all required easements and will show them on the final partition plat for review and approval by the County Surveyor.*

16.33.560 Street lighting.

Proposed subdivisions located within established street lighting district boundaries shall submit street lighting plans from the appropriate power company to the director of public works for approval. All provisions for wiring for underground installation shall be completed before the final street improvement is made.

Applicant's Findings: *It is not anticipated any additional street lighting will be required for the proposed three parcel partition. However, the applicant will work with the county at the time of building permit and partition plat submittal to determine the street lighting requirement.*

Article V. Partitioning's

16.33.580 Pre-application conference.

Prior to the actual filing of a partitioning application, it is recommended that the applicant contact the staff for a pre-application conference. The meeting will enable the staff to review the proposal and determine if the partition is consistent with the intent of this title and the Comprehensive Plan and whether public services are required and available.

Applicant's Findings: *The applicant had discussions with staff prior to submitting the application but chose not to conduct a formal pre-application conference which is not required as stated in this section.*

16.33.600 Partitioning application and initial decision.

When an area or tract of land is to be partitioned an application shall be filed with the planning division; provided, that this section shall not apply to partitioning where all lots maintain a minimum of 20 feet of frontage on a public street in the RL, RM, CO, CR, CG, IC, IP, HC, IG, or IH zones. This administrative

decision shall be final unless an appeal is taken as provided in MCC 16.33.720. When a partitioning application is to be considered concurrently with an additional land use application, the initial decision may be made by the director or hearings officer. The director shall determine if annexation to a sewer or water district or a city is required for any partition proposed inside an urban growth boundary. If the director determines that annexation is required, annexation or a nonremonstrance agreement must be filed with the appropriate agency.

Applicant's Findings: *The applicant is submitting a consolidated application for a Comprehensive Plan amendment, zone change, partition, and adjustments. Parcel 3 is proposed to be redesignated as RM and is proposed to have 24-feet of frontage onto MacLeay Road SE. The applicant understands the partition application, because it is consolidated with other applications, will be reviewed before the Hearing's Officer. The property already falls within the Suburban East Salem Water District and City of Salem sanitary sewer is available within MacLeay Road SE. The development site is not contiguous to corporate City of Salem limits, and it's not anticipated a determination will be made that annexation is appropriate or allowable.*

16.33.620 Required application information.

The following application information is required:

- A. The application form filled out completely in ink.
- B. Copy of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the parent parcel.
- C. Plot Plan. The plot plan should be on a separate sheet of paper eight and one-half inches by 11 inches and must be drawn in ink, showing the location of the proposed property lines and adjustments, and distances to structures, property lines, roads, drainage, access, and other features. The plot plan must be reviewed and initialed as accepted by a plan's examiner from the building inspection division.
- D. If the property is within the geologically hazardous overlay zone, any study required by Chapter 16.24 MCC shall accompany the application. If the chapter requires peer review of the study, this must also be submitted with the partition application.
- E. A written statement which explains your reasons for dividing the land and how the division conforms to Marion County land use policies and regulations of the applicable zone.
- F. If the partitioning includes the creation of a private roadway the applicant must include four proposed road names in the order of preference.
- G. Filing fee.

Applicant's Findings: *The applicant understands the information which is required to be provided. This application submittal provides all of the information needed for County Staff to accept and review the application for compliance with the applicable code sections. The application filing fees in the required amounts are included via a check made payable to Marion County.*

16.33.640 Information from affected agencies.

Upon receipt, a copy of the application shall be distributed to the Marion County department of public works, county assessor, county surveyor, building inspection division, and other affected agencies with a request for comments or suggestions regarding those features that come within the scope of their activities.

Applicant's Findings: *The applicant understands County Staff will circulate the application information to other departments and jurisdictions which have a vested interest in the proposal to receive comments or suggestions on the proposed development. The applicant has thoroughly reviewed the code and provided findings to each section in order to design the proposed development shown on the included site plan. The applicant is anticipating staff consensus with what is being proposed.*

16.33.660 Conformance with regulations.

Unless an adjustment is granted as provided herein, partitions shall conform to applicable regulations contained in MCC 16.33.180 through 16.33.660.

Applicant's Findings: *The applicant is seeking two minor adjustments for the proposed development. The first adjustment is to the side yard setback of each existing single-family dwelling where they are contiguous to newly proposed Parcel 3. The second adjustment is to the dimensional standards of open space within the RM zone for the multiple family development. The applicant is only seeking the minimum adjustment required to develop the property efficiently. With the exception of the regulations the applicant is seeking adjustment to, the applicable criteria are met by the proposal.*

16.33.680 Access standards.

All lots must have a minimum 20 feet of frontage on a public right-of-way or, when an access easement is proposed to serve one or more lots in any partitioning, the location and improvement of the roadway access shall conform to the following standards which are necessary for adequate access for emergency vehicles. Evidence that the access has been improved to these standards and a driveway permit has been obtained shall be provided prior to the issuance of building permits on the parcels served by the access easement. The easement shall meet the following standards:

- A. Have a minimum easement width of 25 feet;
- B. Have a maximum grade of 12 percent;
- C. Be improved with a paved surface with a minimum width of 20 feet;
- D. Provide adequate sight distance at intersections with public roadways;
- E. Be provided with a road name sign at the public roadway as an identification for emergency vehicles in accordance with Chapter 11.55 MCC, Naming and Addressing Roads/Property.

Applicant's Findings: *As shown on the proposed site plan, each of the proposed parcels has the minimum frontage required and conforms to the standards of this section. No access easement is being proposed as each parcel will have their own frontage.*

16.33.700 Notification of decision.

Notice of the decision, including any adjustments, and information on the appeal process shall be sent to the applicant, mortgagees, department of public works, affected county agencies, and all landowners within the notification area.

Applicant's Findings: *Pursuant to MCC 16.37.020, this application is quasi-judicial and requires review and consideration before the Hearings Officer, and a public hearing. The applicant understands notice of the decision, including any adjustments, and information on the appeal process shall be sent to the applicant, mortgagees, department of public works, affected county agencies, and all landowners within the notification area.*

16.33.720 Appeal.

Upon final action on the partitioning by the director, interested persons may appeal the decision through the process outlined in MCC 16.37.080.

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

16.33.740 Public hearing.

If the director's decision is appealed, the hearings officer or board shall conduct a public hearing in accordance with Chapter 16.44 and/or 16.45 MCC.

Applicant's Findings: *The application is being consolidated with an application that requires a public hearing before the Hearing's Officer. If the decision is appealed, it will be reviewed before the Marion County Board of Directors.*

16.33.760 Decision on appeal.

The hearings officer or board shall render a decision on the appeal in accordance with the provisions of this chapter, after the conclusion of the hearing. Notice of the decision shall be provided to the applicants, appellant, and others requesting notice in writing.

The decision of the hearings officer may be appealed to the board no later than 15 days after the decision is rendered. The board may sustain the decision or decide the appeal with or without a further public hearing. If a public hearing is held it shall conform with Chapter 16.45 MCC. If the board exercises its authority pursuant to MCC 16.45.020, its decision is final and appealable only to the Oregon Land Use Board of Appeals.

Applicant's Findings: *The authority to review and decide an appeal of the application will be the County Commissioners followed by Oregon Land Use Board of Appeals. The applicant is aware of the provisions regarding appeal procedures for this consolidated application submittal.*

16.33.780 Final recordation.

Within two years of approval of the partitioning application, the applicant shall submit to the Marion County surveyor's office, with a copy forwarded to the Marion County planning director, a partitioning plat in the appropriate form that shall reflect the final decision. When so approved, the plat shall be recorded with the Marion County clerk. Until the plat is so approved and recorded, no building permits for any of the divided parcels shall be issued. Should the applicant fail to record a partitioning map within two years, the approval shall be deemed null and void. An extension may be approved by the director upon submittal of written justification prior to the expiration of the two-year time limit.

Applicant's Findings: *The applicant has hired a Professional Land Surveyor as part of the development team for this project. It is understood there is a two-year limit to submit a partition plat which reflects the final decision of approval for this case. Upon approval, the applicant will record the partition plat and any accompanying documentation required with the Marion County clerk. The applicant understands building permits will not be granted prior to final plat approval and recordation with the clerk. The applicant is aware that failure to record a partition plat or be granted a time extension will result in the approval being deemed null and void.*

Article VII. Adjustments, Violations and Appeals

16.33.1060 Adjustments from regulations.

A. Authorization. The director, commission, hearings officer or board may authorize an adjustment of any requirements set forth in MCC 16.33.040 through 16.33.780. The director may authorize such adjustments for lot line adjustments, partitions, PUDs, or subdivisions with the written concurrence of the affected county department. Adjustments pertaining to other regulations contained in this chapter or MCC 16.26.800 shall be authorized as provided in this title.

B. Basic Consideration of an Adjustment. Adjustments to MCC 16.33.040 through 16.33.780 may be granted only upon a sufficient showing as determined by the director, commission, hearings officer or board that the criteria listed in MCC 16.41.030 or 16.41.040 have been met.

C. Application for Adjustment. Any person wishing to obtain an adjustment from these regulations shall submit to the division a written statement giving complete details of conditions and reasons why a specific adjustment should be granted.

Applicant's Findings: *The applicant is presenting a consolidated application which consists of a Comprehensive Plan amendment, zone change, partition, and adjustments. The applicant is seeking two adjustments to standards in order to efficiently develop the subject property. Within Section 9 below, the applicant has demonstrated compliance with the Marion County Code in regard to adjustment criteria which also meets the requirements of this section.*

16.33.1080 Appeal procedure.

Any person may appeal the granting or denial of an adjustment of this chapter by filing a written appeal within the appeal period provided for the property line adjustment, partitioning or subdivision. The procedure for considering appeals to adjustments shall be the same as that provided in Chapters 16.44 and/or 16.45 MCC.

Applicant's Findings: *The applicant understands anyone may appeal the granting or denial of an adjustment by filing a written appeal within the appeal period. All appeals must meet the requirements of MCC Chapters 16.44 and/or 16.45.*

16.33.1100 Lots created in violation of this chapter.

Any lot, parcel, street or road created in violation of the provisions of this chapter shall be deemed null and void. When such a lot or parcel of land is created in violation of the provisions of this chapter or has failed to receive approval of the county as required by ORS 92.040, the Marion County building official shall stop the construction of any structure in process on that property. No permit for the use of land or structures or for the alteration or construction of any structure shall be issued and no land use approval shall be granted if the land for which the permit or approval is sought is being used in violation of any condition of approval of any land use action, or is being used or has been divided in violation of the provisions of this chapter or this title, unless issuance of the permit would correct the violation.

Applicant's Findings: *The proposal does not include a creation of any lot, parcel, street, or road which would be in violation of this chapter. The applicant understands the provisions of this section.*

Section 9: Findings Applicable to Adjustment

Chapter 16.41 – Adjustments

16.41.010 Purpose.

An adjustment is intended to provide flexibility, adaptability, and reasonableness in the application and administration of development standards where special circumstances related to the land or buildings exist. Deviation from quantifiable standards is provided for in MCC 16.41.030. Any deviation must be carefully reviewed to ensure that criteria justifying the deviation are met, and to ensure that the extent and impact of deviation will be that minimum degree which is reasonably necessary to meet the special circumstances.

16.41.020 Authorization and procedures.

- A. An adjustment shall only be allowed to the development standards in the applicable zone or the requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC.
- B. An adjustment may be approved if the procedures in Chapters 16.36 and 16.37 MCC are followed, and it is found that the criteria in MCC 16.41.030 are met.
- C. No adjustment authorizing a use not otherwise permitted for the subject property shall be granted.

Applicant's Findings: *The applicant understands the adjustment authorization and procedures outlined above. The applicant has provided substantive findings in response the applicable adjustment criteria found in MCC Chapter 16.41.030 below.*

16.41.030 Adjustment criteria.

The development standards in the applicable zone and the development requirements in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for adjustments:

- A. The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and
- B. The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and
- C. The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and
- D. The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.

Applicant's Findings: *The applicant is seeking two adjustments to applicable Marion County provisions in an effort to efficiently develop the subject property. The adjustments being sought are the minimum necessary to permit development of the proposed use.*

1. The first adjustment being sought is a reduction to the minimum interior side yard setback where the existing dwelling for 4095 MacLeay Road SE and the existing dwelling for 4135 MacLeay Road SE will be contiguous with the newly proposed Parcel 3. Proposed Parcel 3 is planned to have 24-feet of frontage onto MacLeay Road SE which will run between the existing single-family dwellings. The width of Parcel 3, as proposed, is the minimum needed to safely accommodate a fire truck to the proposed multiple family townhouse development on the northern portion of the parcel. The minimum driveway width required is 22-feet and the additional foot on each side of the driveway is necessary for ongoing maintenance in the future. The required width of this portion of proposed Parcel 3 means the interior side yard setback along the westerly property line of 4095 MacLeay Road SE, or proposed Parcel 2, must see a reduction to the minimum 5-foot standard provided in MCC Chapter 16.02.140(A). The applicant is requesting a reduction down to approximately 3.5-feet, or 30 percent of the standard. The interior side yard setback along the easterly property line of 4135 MacLeay Road SE, or proposed Parcel 1, must see a reduction to the minimum 5-foot standard as well. The applicant is requesting a reduction down to approximately 3-feet, or a 40 percent reduction of the standard.

Granting the reduction to interior side yard setbacks will not have a significant adverse impact upon the adjacent existing or planned uses and development. The purpose of interior side yard setbacks is to allow for air and light between structures to improve livability. No new structures are planned to be placed between the existing single-family dwellings. The driveway will be located between the homes and is being provided at the minimum allowable width to ensure a fire apparatus can safely serve the multiple family development. Because no new structures are

being proposed in between the existing structures, the intent of the side yard setback is still being met.

Reducing the interior side yard setbacks to each of the existing dwellings will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity. The applicant can mitigate impacts of the side yard reduction by installing landscaping and a residential fence to screen the existing development from the new driveway. The applicant is also willing to install bollards to protect the existing homes from vehicles driving down the new driveway.

The adjustment is being requested in order to accommodate the minimum driveway width required to adequately serve Parcel 3. The request is the minimum needed to efficiently develop the subject property in a manner that is most consistent with provisions of the code which are in place to eliminate life safety issues.

As stated previously, the purpose of interior side yard setbacks is to allow for air and light between structures to improve livability. No new structures are planned to be placed between the existing single-family dwellings. The driveway will be located between the homes and is being provided at the minimum allowable width to ensure a fire apparatus can safely serve the multiple family development. Because no new structures are being proposed in between the existing structures, the intent of the side yard setback is still being met. The applicant has demonstrated compliance with the applicable criteria for the Hearing's Officer to grant approval to this adjustment.

2. The second adjustment being sought is an adjustment to the standard within the multiple-family development code, specifically Chapter 16.04.200(C) where the code states: The average length of a playground or playfield shall not be more than twice the average width. The intent of this code is to require developments for multiple family dwellings to provide usable open spaces and a more livable community. Due to the unique configuration of proposed Parcel 3 and other requirements, like a fire apparatus turnaround, parking, pedestrian walkways, and other landscaped areas, the applicant was unable to meet this requirement for the provided play areas. In an effort to mitigate the impacts of the deviation from this standard, the applicant has provided a robust recreation system for this development. As shown on the plan included with this application, the applicant is designating two play areas, several open space areas which will meet the landscaping requirements, and a designated sports court area. For this development proposal, 1,150 square feet of open space is required, and the proposal includes a sports court which is 560 square feet in size, two play areas which total 2,370 square feet in size, and open space which totals 11,370 square feet in size. Granting this adjustment will not have any impact on the adjacent existing or proposed developments. Because the applicant is provided several areas for recreational opportunities, the adjustment will not have a significant adverse impact on the health or safety of persons working or residing on the vicinity. The applicant believes providing more opportunities for recreation throughout the site is more beneficial to the health of residence than providing one 1,150 square foot recreational area. The adjustment being sought is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit the development of the property for the proposed use as described above.

The applicant has provided more open space and play areas than the amount required by the code and is committed to developing a complex which is livable for the future residences. By including the additional open and recreational spaces and opportunities, the development is still in line with the intent and purpose of the provision of MCC 16.04.200(C). The applicant has demonstrated compliance with the applicable criteria for the Hearing's Officer to grant approval to this adjustment.

16.41.040 Adjustment conditions.

Such conditions as are deemed appropriate so that the criteria specified in MCC 16.41.030 will be most effectively met may be imposed, and such conditions may be considered in making findings as to those criteria. The effective date or duration of an adjustment may be limited.

Applicant's Findings: *It is understood that conditions may be imposed on the subject development to mitigate the impacts the adjustments might have to the proposed or existing developments within or adjacent to the proposal. Any conditions deemed appropriate by the Planning Administrator must adhere to this criterion.*

16.41.050 Transfer of adjustment.

Unless otherwise provided in the final decision granting the adjustment, any adjustment granted pursuant to this chapter shall automatically transfer to any new owner or occupant subject to all conditions of approval.

Applicant's Findings: *The applicant understands the rights granted with the adjustments will transfer if the ownership of the property is to transfer in the future. Any subsequent owners will need to comply with and maintain all conditions of the original approval.*

Section 10: Conclusion

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

Section 11: Exhibits

Exhibit A – Marion County Application Form

Exhibit B – Title Transfer Instrument

Exhibit C – Site Plan