

NOTICE OF DECISION

PLANNING DIVISION
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DECISION OF THE PLANNING ADMINISTRATOR

FORMAL INTERPRETATION CASE NO.: CI23-01

APPLICATION NO.: 23-108178-PLN

NOTICE OF DECISION DATE: August 8, 2023

REQUEST: A Formal Interpretation of the City's development code, pursuant to SRC 110.075, requesting clarification regarding certain provisions of the City's Willamette Greenway overlay zone, including SRC 600.015(a)(2)(J), SRC 600.015(a)(2)(L), SRC 600.015(a)(1) & (2), and the definitions of "change of use" and "intensification" under SRC 600.005, as they apply to the planned redevelopment of the former Truitt Brothers Cannery site located at 1105 Front Street NE (Marion County Assessor Map and Tax Lot Number: 073W22AB00900, 073W22AB00600, and 073W22AB00300).

APPLICANT: Zach Pelz, of AKS Engineering & Forestry

LOCATION: 1105 Front Street NE

CRITERIA: Salem Revised Code (SRC) Chapter 110.075(e) – Formal Interpretations

FINDINGS: The findings are in the attached Decision dated August 8, 2023.

DECISION: The **Planning Administrator** issued a formal interpretation of the identified provisions of the City's development code, the Unified Development Code (UDC). The formal interpretation for Case No. CI23-01 is included in the attached decision.

Notice of Decision Mailing Date: August 8, 2023
Decision Effective Date: August 24, 2023

Case Manager: Bryce Bishop, Planner III, bbishop@cityofsaelm.net, 503-540-2399

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Wednesday, August 23, 2023. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 110. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The City Council will review the appeal at a public hearing. After the hearing, the City Council may affirm or modify the decision.

The complete case file, including findings and conclusions, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

DECISION

IN THE MATTER OF FORMAL) FINDINGS & ORDER
INTERPRETATION CASE CI23-01;)
1105 FRONT STREET NE) August 8, 2023

In the matter of the Formal Interpretation request of the City’s development code submitted by Zach Pelz, of AKS Engineering & Forestry, on behalf of the applicant, Future of Neighborhood Development, the Planning Administrator, having received and reviewed the evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

A Formal Interpretation of the City’s development code, pursuant to SRC 110.075, requesting clarification regarding certain provisions of the City’s Willamette Greenway overlay zone, including SRC 600.015(a)(2)(J), SRC 600.015(a)(2)(L), SRC 600.015(a)(1) & (2), and the definitions of “change of use” and “intensification” under SRC 600.005, as they apply to the planned redevelopment of the former Truitt Brothers Cannery site located at 1105 Front Street NE (Marion County Assessor Map and Tax Lot Number: 073W22AB00900, 073W22AB00600, and 073W22AB00300).

PROCEDURAL FINDINGS

1. On April 14, 2023, an application for a Formal Interpretation of the City’s development code, the Unified Development Code (UDC), was submitted by Zach Pelz, of AKS Engineering & Forestry, on behalf of the applicant, Future of Neighborhood Development, requesting interpretation of certain provisions of the City’s Willamette Greenway overlay zone as they apply to the proposed redevelopment of the former Truitt Brothers Cannery site.
2. Pursuant to SRC 110.075(e), subsequent to an application for a Formal Interpretation being deemed complete, the Planning Administrator shall review the request and issue a formal interpretation of the specific provision(s) of the UDC for which the formal interpretation has been requested.

SUBSTANTIVE FINDINGS

1. Background

The Formal Interpretation being reviewed by the Planning Administrator has been requested by the applicant due to uncertainty associated with how certain provisions of the City’s Willamette Greenway overlay zone would apply to the planned future redevelopment of the former Truitt Brothers Cannery site located at 1105 Front Street NE (**Attachment A**). The application seeks formal interpretation of the following provisions of SRC Chapter 600 (Willamette Greenway):

- A. **SRC 600.015(a)(2)(J)** – Greenway development permit exception for alternations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.

- B. **SRC 600.015(a)(2)(L)** – Greenway development permit exception for ordinary maintenance and repair of buildings, structures, parking lots, or other site improvements that were in existence prior to June 9, 2004.
- C. **SRC 600.015(a)(1) and (2)** – Greenway development permit applicability and exceptions.
- D. **SRC 600.005** – Definitions of “change of use” and intensification.”

2. Applicant’s Plans and Statement

Salem Revised Code (SRC) 110.075(d) requires that when a formal interpretation is submitted, the applicant is required to provide a written statement that identifies the provision(s) of the UDC for which the formal interpretation is being requested and describes the applicant’s understood meaning of the provision(s) and/or how they are intended to be applied; together with any additional supporting information that the applicant deems necessary to provide evidence in support of the requested interpretation.

The written statement describing the applicant’s requested formal interpretation is included as **Attachment B** and the additional materials provided by the applicant in support of formal interpretation request are attached to this decision as follows:

- Conceptual Site Redevelopment Plan: **Attachment C**
- Statewide Planning Goal 15 (Willamette River Greenway): **Attachment D**
- Willamette River Greenway Plan: **Attachment E**

3. Summary of Record.

The following items are submitted to the record and are available: 1) All materials submitted by the applicant; and 2) All documents referenced in this decision. All application materials are available on the City’s online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 23108178.

DECISION CRITERIA FINDINGS

4. Authority and Purpose.

SRC Chapter 110 (General Zoning Provisions), specifically SRC 110.075, establishes the applicable process and requirements for formal interpretations of the City’s development code. Under SRC 110.075(c), the Planning Administrator is authorized to issue formal interpretations of the UDC, and such interpretation requests may be initiated by an applicant.

The purpose of a formal interpretation is to clarify ambiguous provisions in the City’s Unified Development Code (UDC) and their application in particular circumstances. Pursuant to SRC 110.075(e), formal interpretations shall:

- (1) Be based on the facts contained within the record and the rules of construction for interpreting the UDC included under SRC 110.080; and
- (2) Be in the form of a written order containing findings stating the facts relied upon in rendering the interpreting and explaining the justification for the decision.

5. Rules of Construction for Interpreting the UDC.

SRC 110.080 establishes the following rules of construction that shall be used in interpreting the UDC:

- (a) An interpretation shall be consistent with generally accepted principles of statutory construction as recognized by the Oregon courts, and shall not, by way of interpretation, add new restrictions, standards, or policies that are not apparent or necessarily implied within the text or context of the provision.
- (b) In making an interpretation, the duty is to simply ascertain and declare what is, in terms or in substance, contained in the provision.
- (c) No interpretation shall insert what has been omitted or omit what has been inserted.
- (d) Where there are several provisions relating to the same subject, a construction shall be given where, if possible, all provisions will be given effect.
- (e) As used in the UDC, words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directory.
- (f) An interpretation shall consider the Salem Area Comprehensive Plan, where applicable. No interpretation shall be inconsistent with the Salem Area Comprehensive Plan.
- (g) In construing an ambiguous provision, the legislative history of the provision may be considered.
- (h) In making interpretations, great weight shall be given to prior interpretations of the same or any related provision.
- (i) Chapters in the UDC contain purpose statements which are intended to provide general explanatory information concerning the chapter. The content of these sections does not constitute approval criteria.

6. Analysis of Salem Revised Code Provisions.

The provisions of the code for which a formal interpretation has been requested are included under the City's Willamette Greenway overlay zone (SRC Chapter 600). As provided under SRC 600.001, the purpose of this chapter is to:

- (a) *To protect and enhance the natural, scenic, recreational, historical, and economic resources of the Willamette River corridor;*
- (b) *To implement the goals and policies of the comprehensive plan, the Willamette River Greenway Plan, and Goal 15 of the statewide planning goals;*
- (c) *To establish standards and requirements for the use of lands within the Willamette River Greenway of Salem;*
- (d) *To provide for the review of any intensification, change of use, or development of properties located within the Willamette River Greenway of Salem;*
- (e) *To allow for use and development consistent with the underlying land use designation while preserving, protecting, and enhancing the scenic qualities of the river and the riparian area;*
- (f) *To allow and encourage a variety of water-dependent, water-related, and river-oriented uses, recreational developments, and public access to and along the river while preserving, protecting, and enhancing the scenic qualities of the river and the riparian area;*
- (g) *To insure that land use and activities which make use of the riparian area are limited to moderate impact on that environment, and do not endanger it;*

- (h) *To insure that the intensification, change of use, or development on a site is in keeping with the function of the Willamette River Greenway Plan, and preserves and enhances the scenic qualities or economic function of the river, the site, and adjacent riparian lands;*
- (i) *To insure that the proposed development is in harmony with existing and proposed adjoining land uses;*
- (j) *To protect and improve water quality in the Willamette River in order to support designated beneficial water uses, and to protect the functional value of the riparian area and provide a riparian buffer to separate the Willamette River from development.*

A. SRC 600.015(a)(2)(J) – Alterations to the Configuration of a Building Footprint.

The formal interpretation submitted by the applicant requests clarification that in the context of SRC 600.015(a)(2)(J), *“alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint”* has the meaning of excepting from review under SRC Chapter 600, reconfigurations that do not increase the size of the building footprint.

The written statement provided by the applicant (**Attachment B**) indicates that in order to enhance views of the river and create a more integrated outdoor experience for tenants and guests, the existing exterior walls and roof, and possibly some of the existing building footprint, along a portion of existing Building C is intended to be removed. The applicant believes that the proposed building reconfiguration is excepted from review under SRC Chapter 600, per SRC 600.015(a)(2)(J). The applicant indicates that this exception appears to cover two scenarios: 1) Building alterations that do not increase the building footprint; and 2) An alteration to the configuration of the building footprint. To give meaning to both clauses, the applicant is requesting that the exception be interpreted such that “altering the configuration of a building footprint” means to increase the building footprint and its permanent ground disturbing impacts and that under this provision a net reduction to the are of a building footprint would qualify for the exception.

The applicant explains that the requested interpretation is consistent with the intent of SRC Chapter 600 and the State Willamette River Greenway program. ORS 390.314(2)(b) acknowledges the necessity to “permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also limit the intensification and change in use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.” The applicant indicates that this interpretation would permit the continuation of the existing use of the land but would also limit and diminish the existing building footprint consistent with ORS 390.314(2)(b). Thus, to the greatest extent possible, the existing building will be retained but diminished in size, and such a decrease will be compatible with the preservation of the greenway qualities listed above.

The applicant indicates that SRC 600.001(a) states the purpose of the WRG is, “To protect and enhance the natural, scenic, recreational, historical, and economic resources of the Willamette River corridor” and that further, SRC 600.025(a)(5) specifies general standards for development that seek to minimize impacts to the riparian buffer during proposed intensification and/or changes of use.

The applicant explains that reducing permanent ground-disturbing activities creates new areas for riparian vegetation and provides opportunities for active and passive enjoyment of the Willamette River while allow for changes to uses and activities in existing urban areas that promote economic viability, all of which is consistent with the express purpose of the WRG Overlay Zone.

Finding: Staff concurs with the findings included in the applicant’s written statement. In the context of Goal 15, OAR 660-015-0005(C)(3)(j), ORS 390.314(2)(b), and the policies applicable to the Greenway Development District of the City’s Willamette River Greenway Plan, the presence of existing urban uses on land within the Willamette Greenway, and the need to permit the continuation of these uses on such land, is recognized, but requires it to be done in a manner that limits the intensification and change in use of these lands so these uses remain, to the greatest degree possible, compatible with the preservation of the natural, scenic, historic, and recreational qualities of the river.

The requirements of the City’s Willamette Greenway overlay zone implement these policies by identifying uses that are allowed to be conducted within the overlay zone and specifying when a proposed change of use, intensification, or development is required to obtain a Greenway Development permit.

Pursuant to SRC 600.015(a)(2)(J), a greenway development permit is not required for, *“Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.”* This permit exception recognizes the potential for existing uses and structures to be present with the Willamette Greenway overlay zone and, in conformance with Goal 15, OAR 660-015-0005(C)(3)(j), ORS 390.314(2)(b), and the policies applicable to the Greenway Development District of the City’s Willamette River Greenway Plan, allows these existing uses and structures to continue to exist provided they are not changed or altered in a manner that would affect the land or water upon which they are located. As indicated in the findings included in the applicant’s written statement, an alteration to a building that decreases its size, and thereby correspondingly reduces its footprint, lessens the impact the building has on the land and the natural, scenic, and recreational qualities of the river; thereby bringing the building it into greater conformance with the requirements of SRC Chapter 600.

Based on the foregoing findings, and the facts and findings included in the applicant’s written statement, *“alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint”* include alterations to the configuration of a building or accessory structure footprint that reduce its size and do not extend it in other areas, and such alterations are exempt from a Greenway Development permit pursuant to SRC 600.015(a)(2)(J).

B. SRC 600.015(a)(2)(L) – Ordinary Maintenance.

The formal interpretation submitted by the applicant requests clarification that in the context of SRC 600.015(a)(2)(L), maintenance and repair activities considered to be “ordinary” include maintenance to existing walls, roof structures, and foundation systems of the existing on-site buildings intended for adaptive reuse, and such ordinary maintenance and repair is excepted from review under SRC Chapter 600.

The written statement provided by the applicant (**Attachment B**) indicates that the existing buildings on-site that are planned for adaptive reuse were originally constructed in the early part of the 20th century (*approximately 1915*) and are primarily concrete structures. A structural analysis of these buildings recommends improving pile bracing for seismic resistance and roof upgrades, among other work, for the buildings to be able to support the proposed and permitted uses. The applicant indicates that per SRC 600.015(a)(2)(L), the ordinary maintenance and repair of buildings that existed prior to June 9, 2004, is exempt from review under SRC Chapter 600, but the term “ordinary” is not defined in SRC Section 111.001. The applicant explains that, therefore, in accordance with SRC 111.010(b), the accepted meaning according to Webster’s Third New Int’l Dictionary (unabridged ed. 2002) is understood to be: “occurring or encountered in the usual course of events; not uncommon or exceptional; not remarkable; routine, normal.”

The applicant indicates that the purpose of this code section is to encourage and not discourage property owners to keep their properties safely maintained to avoid blighted conditions and damage to human health and the environment. Routine maintenance and repair of concrete buildings, foundations, and their support structures is necessary to ensure safe use and optimum longevity of these structures. The applicant explains that therefore, maintenance of the existing walls, roof structures, and foundation systems of the existing on-site buildings intended for adaptive reuse is usual and routine for the proper performance of these buildings and such maintenance activities, including related work necessary to adapt these buildings to current building code standards, are excepted from review under SRC 600 pursuant to SRC 600.015(a)(2)(L).

Finding: Staff concurs with the findings included in the applicant’s written statement. As with the exemption under SRC 600.015(a)(2)(J) for alterations of buildings or accessory structures which do not increase the size or alter the configuration of building or accessory structure footprints, the exemption for the ordinary maintenance and repair of existing buildings and structures included under SRC 600.015(a)(2)(L) recognizes the presence of existing buildings and structures within the Willamette Greenway overlay zone, that such buildings and structures are allowed to continue to exist, and that in order to ensure the buildings and structures remain safe, habitable, and do not become derelict or dangerous, they may be repaired and maintained without the requirement to obtain a Greenway Development Permit.

As indicated by the findings included in the applicant’s written statement, usual maintenance and repair of existing buildings and structures can include work that involves repair of walls, roofs, and foundations that have fallen into disrepair or improvements to adapt buildings to current building code standards. Such activities ensure the safety of existing buildings and structures and do not result in impacts to the land or water that are detrimental to the natural, scenic, and recreational qualities of the river.

Based on the foregoing findings, and the facts and findings included in the applicant’s written statement, “*Ordinary maintenance and repair of buildings, structures, parking lots, or other site improvements that were in existence prior to June 9, 2004*” includes maintenance to existing walls, roof structures, and foundation systems required for the proper performance of a building, and such related work necessary to adapt a building to current building code standards. Pursuant to SRC 600.015(a)(2)(L), such maintenance and repair activities are exempt from Greenway Development Permit review.

C. SRC 600.015(a)(1) and (2) – Uses and activities excepted from review under SRC 600.

The formal interpretation submitted by the applicant indicates that SRC 600.015(a)(1) requires review under SRC 600 for any intensification, change of use, or development within the Willamette Greenway overlay zone which occurs after December 6, 1975, and that this threshold for applicability is in addition to a separate list of exceptions from permit review included in SRC 600.015(a)(2). The applicant requests that the City interpret SRC 600.015(a) to except from review under SRC Chapter 600 those uses and activities in SRC 600.015(a)(2), as well as those uses and activities which are not considered a change of use, intensification, or development per SRC 600.015(a)(1).

The applicant indicates that clarifying the uses and activities that are excepted from review under SRC Chapter 600, helps achieve the mutual objectives of natural resource preservation and economic development which establish the basis for the State and local Willamette River Greenway guidance.

Finding: In regard to the applicability requirements for Greenway Development Permit review identified under SRC 600.015(a)(1) and the specific exceptions from Greenway Development Permit review identified under SRC 600.015(a)(2), the applicant is correct that the first threshold for determining whether a Greenway Development Permit is required for a specific use or development activity is whether it qualifies under the definitions of SRC 600.005 as “intensification,” “change of use,” or “development” because any intensification, change of use, or development within the Willamette Greenway overlay zone requires a Greenway development permit unless it is otherwise excepted from review under SRC 600.015(a)(2).

Pursuant to SRC 110.075(a), the purpose of a formal interpretation is to clarify ambiguous provisions of the UDC and their application in particular circumstances. Based on the current language of SRC 600.015(a)(1) and (2), it is clear that if a proposed use or development activity does not meet the definition of intensification, change of use or development, then Greenway Development Permit review is not required. Alternatively, if a proposed use or development activity meets the definition of intensification, change of use, or development, but is otherwise identified as being exempt from review under SRC 600.015(a)(2), Greenway Development Permit review is not required. Because the Greenway Development Permit applicability requirements of SRC 600.015(a)(1) and SRC 600.015(a)(2) are not ambiguous, they can be applied based on their plain text meaning without need for further interpretation. Adopting an interpretation of these provisions consistent with that which has been suggested by the applicant would have the effect of expanding applicable exemptions beyond those which are currently identified in the code and therefore falls outside the scope of the rules of construction for interpreting the UDC under SRC 110.080.

D. SRC 600.005 – Definitions of Change of Use, Development, and Intensification.

The formal interpretation submitted by the applicant indicates that subjective language (e.g., “does not substantially alter...,” “...facilities as are usual and necessary to the use and enjoyment...,” and “will not substantially alter the appearance of the structure”) is prevalent through the definitions for change of use, intensification, and development. The

applicant therefore requests the City interpret the below identified highlighted provisions of the definitions of “change of use” and “intensification” as follows:

- *“Change of use means making a different use of the land or water than that which existed on December 6, 1975. Change of use includes changes which require construction or alteration to land or water outside of existing buildings, structures, or open storage areas and which substantially alters or affects land or water. Change of use does not include:*
 - (a) A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is located;***
 - (b) The completion of a structure for which a valid permit has been issued as of December 6, 1975, and under which substantial construction was undertaken by July 1, 1976;
 - (c) The sale of property;
 - (d) Landscaping;
 - (e) Construction of driveway approaches;
 - (f) Modifications of existing structures; or***
 - (g) The construction or placement of accessory structures or facilities that are usual and necessary to the use and enjoyment of existing improvements, as permitted by this chapter.”***

The applicant requests that, *“A change of use of a building which does not substantially alter or affect the land or water upon which it is located,”* be interpreted to mean a change that does not permanently increase ground or water disturbing activities and/or permanently increase the area of the footprint of an existing building.

Finding: Based on the current definition of “change of use”, a change of use of a building or other structure applies specifically to the use of a building or structure. If a change of use of a building or structure does not require the footprint of a building or structure to be increased in size, there is no affect, substantial or otherwise, to the land upon which it is located and therefore the change of use would not be considered a “change of use” for purposes of this definition.

Whether or not a change of use of a building or structure results in a permanent increase in ground or water disturbing activity or a permanent increase in the size of the footprint of an existing building, the current definition of change of use does not include a component relating to the duration of impact that a change of use of a building or structure may have on the land or water upon which it is located. As such, interpreting this definition to mean that a change of use of a building or structure is not a “change of use” for the purpose of this definition if it does not permanently increase ground or water disturbing activities and/or permanently increase the area of the footprint of an existing building inserts a concept into the definition that currently does not exist and therefore falls outside the scope of the rules of construction for interpreting the UDC under SRC 110.080. A change of use of a building or structure which results in non-permanent, temporary alterations or impacts to the land or water upon which it is located can still have the potential for those alterations or impacts to be substantial depending on their specific nature and scale.

The applicant requests that, “*Modifications of existing structures*” and “*The construction or placement of accessory structures of facilities that are usual and necessary to the use and enjoyment of existing improvements, as permitted by this chapter*” be interpreted to mean such modifications to existing structures or the construction or placement of new structures that are related to existing structures and which result in no net increase in permanent ground disturbing activity and/or do not result in a net permanent increase in the area of the footprint of an existing building.

Finding: As with the requested interpretation above of, “*A change of use of a building which does not substantially alter or affect the land or water upon which it is located,*” the exceptions from the definition of “change of use” concerning, “*Modifications of existing structures*” and, “*The construction or placement of accessory structures or facilities that are usual and necessary to the use and enjoyment of existing improvements, as permitted by this chapter,*” do not currently include components relating to the duration of impact that the modifications of existing structures or construction or placement of accessory structures may have on the land or water upon which they’re located and therefore fall outside the scope of the rules of construction for interpreting the UDC under SRC 110.080.

- “*Intensification means any addition which increases or expands the area or level of activity of an existing use or activity; or any **remodeling of the exterior of a structure which will substantially alter the appearance of the structure.** For purposes of this definition, “intensification” does not include:*
 - (a) *Completion of a structure for which a valid permit has been issued as of December 6, 1975, and under which substantial construction has been undertaken by July 1, 1976;*
 - (b) *Maintenance and repair, usual and necessary for the continuance of an existing use;*
 - (c) *Reasonable emergency procedures necessary for the safety or protection of property; or*
 - (d) *Seasonal increases in gravel operations.”*

The applicant requests that, “*...remodeling of the exterior of a structure which will substantially alter the appearance of the structure,*” be interpreted to not include exterior alterations that do not increase permanent ground disturbing activity and/or permanently increase the area of the footprint of an existing building. The applicant explains that this interpretation is consistent with SRC 600.015(a)(2)(J) which explicitly excepts from review under SRC Chapter 600, “Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.”

Finding: Based on the definition of “intensification” included under SRC 600.005, the remodeling of the exterior of a structure which substantially alters the appearance of the structure meets the definition of intensification and would therefore meet the baseline threshold for requirement Greenway Development Permit review under SRC Chapter 600. However, SRC 600.015(a)(1) provides that. “Except as provided under subsection (a)(2) of this section, no intensification, change of use, or development within the Willamette Greenway Overlay Zone shall occur unless a greenway development permit has been issued pursuant to this chapter.”

SRC 600.015(a)(2) identifies exceptions from the requirement to obtain a Greenway Development Permit for specific uses and activities. One such exception included under SRC 600.015(a)(2)(J) is, “Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.”

Based on this exception, although the remodeling of the exterior of a structure which substantially alters its appearance is considered an “intensification” that would otherwise require Greenway Development Permit review, such remodeling would be exempt, per SRC 600.015(a)(2)(J), as long as the exterior remodeling, which is a form of alteration to a building, does not increase the size or alter the configuration of the building or accessory structure footprint. As provided in the interpretation of SRC 600.015(a)(2)(J) above, alterations to the configuration of the building or accessory structure footprint include alterations to the configuration of a building or accessory structure footprint that reduce its size and do not extend it in other areas.

IT IS HEREBY ORDERED

Based on the foregoing findings and conclusions, consideration of the materials submitted by the applicant, and review of the requested interpretation pursuant to SRC 110.075, the Planning Administrator makes the following Formal Interpretation:

- 1) **SRC 600.015(a)(2)(J) – Greenway development permit exception for alternations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.**

SRC 600.015(a)(2)(J) exempts alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint from requiring a Greenway Development Permit.

For the purpose of this exception, alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint include alterations to the configuration of a building or accessory structure footprint that reduce its size and do not extend it in other areas, and such alterations are exempt from a Greenway Development permit pursuant to SRC 600.015(a)(2)(J).

- 2) **SRC 600.015(a)(2)(L) – Greenway development permit exception for ordinary maintenance and repair of buildings, structures, parking lots, or other site improvements that were in existence prior to June 9, 2004.**

SRC 600.015(a)(2)(L) exempts the ordinary maintenance and repair of buildings, structures, parking lots, and other site improvements that were in existence prior to June 9, 2004, from requiring a Greenway Development Permit.

For the purpose of this exception, ordinary maintenance and repair of buildings, structures, parking lots, or other site improvements that were in existence prior to June 9, 2004, includes maintenance to existing walls, roof structures, and foundation systems required for the proper performance of a building, and such related work necessary to adapt a building to current building code standards. Pursuant to SRC 600.015(a)(2)(L), such maintenance and repair activities are exempt from Greenway Development Permit review.

3) SRC 600.015(a)(1) and (2) – Greenway development permit applicability and exceptions.

SRC 600.015(a)(1) and (2) establish applicability requirements for, and certain exceptions from, Greenway Development Permits.

Based on the current language of SRC 600.015(a)(1) and (2), it is clear that if a proposed use or development activity does not meet the definition of intensification, change or use or development, then Greenway Development Permit review is not required and, alternatively, if a proposed use or development activity meets the definition of intensification, change of use, or development, but is otherwise identified as being exempt from review under SRC 600.015(a)(2), Greenway Development Permit review is not required. Because the Greenway Development Permit applicability requirements of SRC 600.015(a)(1) and SRC 600.015(a)(2) are not ambiguous, these provisions can be applied based on their plain text meaning without need for further interpretation. Adopting an interpretation of these provisions consistent with recommendation of the applicant would have the effect of expanding applicable exemptions beyond those which are currently identified and therefore falls outside the scope of the rules of construction for interpreting the UDC under SRC 110.080.

4) SRC 600.005 – Definitions of “change of use” and intensification.”

SRC 600.005 establishes definitions for various terms utilized within SRC Chapter 600, including definitions for “change of use” and “intensification.” Because Greenway Development Permit review is generally required for any intensification, change, or use or development within the Willamette Greenway overlay zone, the definitions of these terms establish baseline threshold for determining when a specific activity requires Greenway Development Permit review.

a) For purposes of the definition of “change of use”:

- i) A change of use of a building or other structure applies specifically to the use of a building or structure. If a change of use of a building or structure does not require the footprint of a building or structure to be increased in size, there is no effect, substantial or otherwise, to the land upon which it is located and therefore the change of use would not be considered a “change of use” for purposes of this definition.

The current definition of change of use does not include a component relating to the duration of impact that a change of use of a building or structure may have on the land or water upon which it is located. As such, interpreting this definition to mean that a change of use of a building or structure is not a “change of use” for the purpose of the definition if it does not permanently increase ground or water disturbing activities and/or permanently increase the area of the footprint of an existing building inserts a concept into the definition that currently does not exist and therefore falls outside the scope of the rules of construction for interpreting the UDC under SRC 110.080. A change of use of a building or structure which results in non-permanent, temporary, alterations or impacts to the land or water upon which it is located can still have the potential for those alterations or impacts to be substantial depending on their specific nature and scale.

- ii) The exceptions from the definition of “change of use” concerning, “*Modifications of existing structures*” and, “*The construction or placement of accessory structures or*

facilities that are usual and necessary to the use and enjoyment of existing improvements, as permitted by this chapter,” do not currently include components relating to the duration of impact that the modifications of existing structures or construction or placement of accessory structures may have on the land or water upon which they’re located and therefore fall outside the scope of the rules of construction for interpreting the UDC under SRC 110.080. As such, these provisions maintain their plain text meaning.

b) For purposes of the definition of “intensification:”

The definition of “intensification” included under SRC 600.005 includes the remodeling of the exterior of a structure which substantially alters the appearance of the structure. However, SRC 600.015(a)(2) identifies exceptions from the requirement to obtain a Greenway Development Permit for specific uses and activities. One such exception included under SRC 600.015(a)(2)(J) is, “Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.”

Based on this exception, although the remodeling of the exterior of a structure which substantially alters its appearance is considered an “intensification” that would otherwise require Greenway Development Permit review, such remodeling is exempt under SRC 600.015(a)(2)(J), as long as the exterior remodeling, which is a form of alteration to a building, does not increase the size or alter the configuration of the building or accessory structure footprint. As provided in the interpretation of SRC 600.015(a)(2)(J) above, alterations to the configuration of the building or accessory structure footprint include alterations to the configuration of a building or accessory structure footprint that reduce its size and do not extend it in other areas.

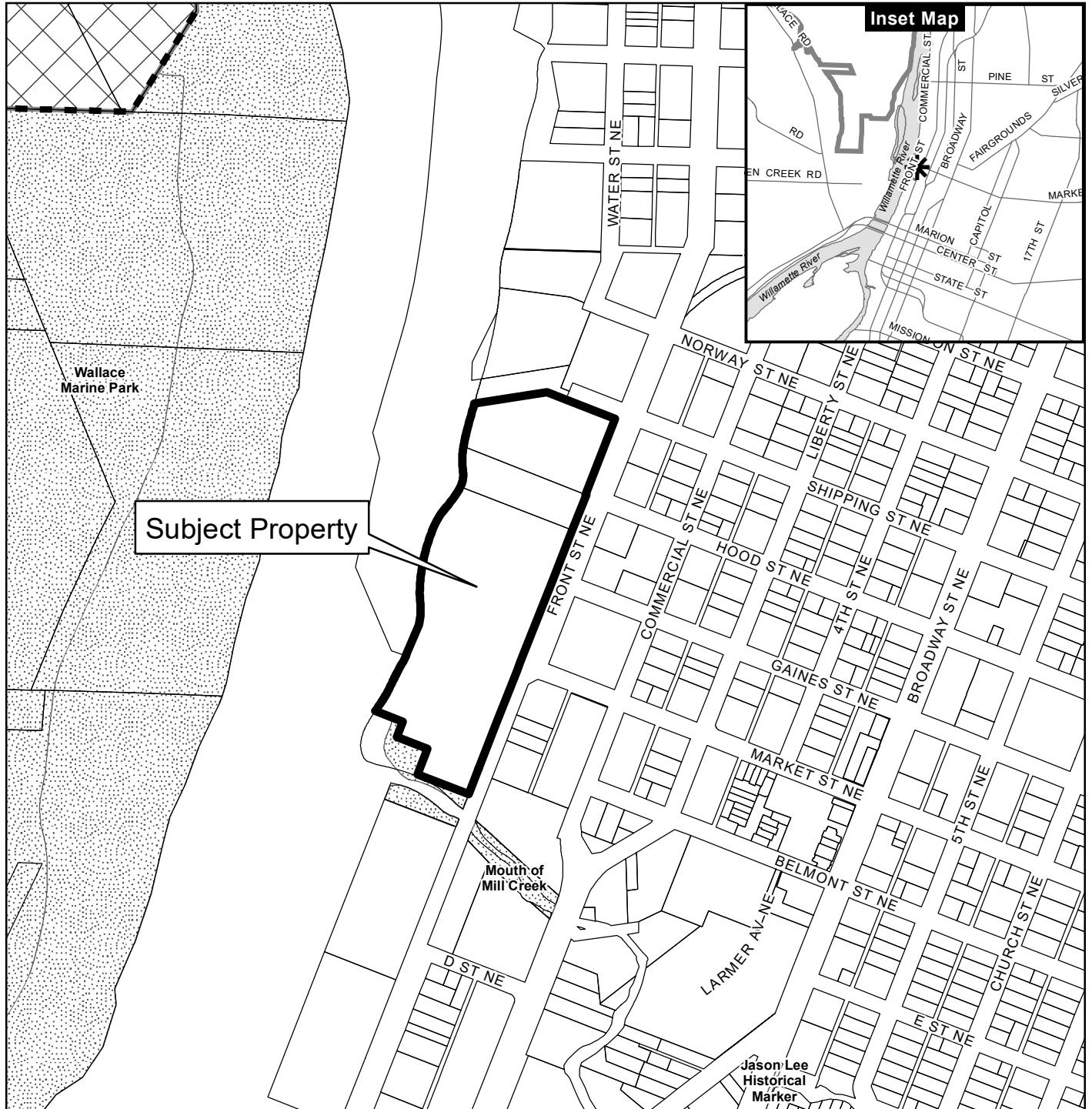


Bryce Bishop, Planner III, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator








Attachments:

- A. Vicinity Map
- B. Applicant’s Formal Interpretation Request
- C. Conceptual Site Redevelopment Plan
- D. Statewide Planning Goal 15 (Willamette River Greenway)
- E. Willamette River Greenway Plan

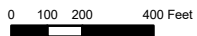
Vicinity Map 1105 Front Street NE



Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.



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April 13, 2023

City of Salem
Planning Division
555 Liberty Street SE, Room 305
Salem, OR 97301

RE: Formal Interpretation Request for the Planned Redevelopment of the Former Truitt Brothers Cannery Site at 1105 Front Street NE

Future of Neighborhood Development (Applicant) is preparing a consolidated package of requests to secure entitlements for the adaptive reuse of an existing industrial property at 1105 Front St NE, in Salem, Oregon. The Applicant seeks clarification of the following Salem Revised Code (SRC) language to facilitate review of the future Site Plan Review, Willamette River Greenway (WRG), and related consolidated applications package. This application seeks formal interpretation of the following provisions:

1. **SRC 600.015(a)(2)(J)**. Clarify that, in the context of SRC 600.015(a)(2)(J), “...alter[ing] the configuration of the building... footprint” excepts from review under SRC Chapter 600, reconfigurations that do not increase the size of the building footprint.
2. **SRC 600.015(a)(2)(L)**. Clarify those maintenance and repair activities that may be considered “ordinary” in the context of SRC 600.015(a)(2)(L).
3. **SRC 600.015(a)(1)**. Clarify that the following uses and activities are intended to be excepted from review under SRC Chapter 600:
 - A change of use of a building, other structure, or existing open storage area which does not substantially alter or affect the land or water upon which it is located;
 - Landscaping;
 - Construction of driveway approaches;
 - Modifications of existing structures or open storage areas; and
 - The construction or placement of accessory structures or facilities that are usual and necessary to the use and enjoyment of existing improvements.

Overview of Salem’s Willamette River Greenway Program

State and local implementation of protections within areas adjacent to the Willamette River largely originates with Oregon Statewide Planning Goal 15 and its corresponding Oregon Administrative Rule (OAR) in OAR 660-015-0005 (Attachment B). This legislative guidance directs cities and counties in Oregon to develop a plan that conserves and enhances, particularly for public use and enjoyment, areas within the WRG as part of their comprehensive plans and zoning ordinances. Goal 15 permits the continuance of urban uses within the greenway. OAR 660-015-0005(C)(3)(j) states that, “Developments shall be directed

away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses.”

Furthermore, Oregon Revised Statutes (ORS) 390.310-390.368, which established the Willamette River Greenway Program, also includes the intent to permit the continuance of existing uses within the Greenway. Per ORS 390.318(1), “units of local government that have lands along the Willamette River within their respective boundaries, shall prepare a plan for the development and management of the Willamette River Greenway as described in ORS 390.314.” ORS 390.314(2)(b) acknowledges the necessity to “permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.”

Salem’s *WRG Plan* (see Attachment C) was adopted on September 10, 1979, and is an element of the August 2022 *Salem Area Comprehensive Plan* intended to implement Statewide Planning Goal 15. Per Salem’s *WRG Plan*, its purpose is to achieve the following objectives:

1. To protect and enhance the natural, scenic, recreational, historical, and economic resources of the Willamette River corridor.
2. To make the natural, scenic, recreational, historical, and economic resources available for the proper use and enjoyment of the Salem urban area resident.
3. To balance the needs and demands of commerce, industry, and people for access to the unique resources of the river.
4. To allow for use and development consistent with the Greenway concept and the *Salem Area Comprehensive Plan* policies.
5. To allow and encourage a variety of recreational developments and types of public access to and along the river while preserving, protecting, and enhancing the scenic qualities of the river and the riparian environment.

In promotion of these recreation, conservation, and economic objectives, Salem’s *WRG Plan* establishes the following WRG subdistricts:

1. Greenway Public Recreation District
2. Greenway Development District

The *Greenway Public Recreation District* includes publicly owned park land along the Willamette River and is intended for uses that are directly related to public recreation. Uses in this subdistrict are intended to be primarily water dependent in nature with allowances made for non-water dependent uses that maximize the retention of riparian vegetation.

The *Greenway Development District* includes areas that are committed to urban uses and comprises commercial and industrial properties in the WRG boundary. The Plan makes explicit that lands which are committed to urban uses shall be permitted to continue as such.

SRC Chapter 600 implements Salem’s *Willamette River Greenway Plan* and Statewide Planning Goal 15. Consistent with the goals and policies of the Greenway Development District, SRC Chapter 600 promotes the viability of lands committed to urban use by excepting from review building alterations that do not increase the size of a building footprint (SRC 600.015(a)(2)(J)) and ordinary maintenance and repair of existing buildings (SRC 600.015(a)(2)(L)). As discussed in Section 3 below, we seek clarification of the meaning and scope of SRC Section 600.015(a) regarding the uses and activities that are subject to review under Chapter 600.

1. SRC 600.015(a)(2)(J): Alterations to the Configuration of a Building Footprint

To enhance views of the river and create a more integrated outdoor experience for tenants and guests, the Applicant intends to remove existing exterior walls and the roof, and possibly remove some of the existing building footprint, along a portion of the existing Building C. All buildings are illustrated on the attached Preliminary Site Plan (Attachment A).

The Applicant believes that this building reconfiguration is excepted from review under SRC Chapter 600, per SRC 600.015(a)(2)(J):

- 600.015 Willamette Greenway development permit.
- (a) Applicability.
 - (2) Exceptions. A greenway development permit is not required for:
 - (...) (J) Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint.

SRC 600.015(a)(2)(J) appears to cover two scenarios: 1) building alterations that do not increase the building footprint, and 2) an alteration to the configuration of the building footprint. To give meaning to both clauses, the Applicant requests that this exception be interpreted such that “altering the configuration of a building footprint” means to increase the building footprint and its permanent ground disturbing impacts. Under this provision, a net reduction to the area of a building footprint would qualify for the exception.

The requested interpretation is consistent with the intent of SRC Chapter 600 and the State WRG program. ORS 390.314(2)(b) acknowledges the necessity to “permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.” This interpretation would permit the continuation of the existing use of the land but would also limit and diminish the existing building footprint consistent with ORS 390.314(2)(b). Thus, to the greatest extent possible, the existing building will be retained but diminished in size, and such a decrease will be compatible with the preservation of the greenway qualities listed above.

SRC 600.001(a) states the purpose of the WRG is, “To protect and enhance the natural, scenic, recreational, historical, and economic resources of the Willamette River corridor.” Further, SRC 600.025(a)(5) specifies

general standards for development that seek to minimize impacts to the riparian buffer during proposed intensification and/or changes of use.

Reducing permanent ground-disturbing activities creates new areas for riparian vegetation and provides opportunities for active and passive enjoyment of the Willamette River while allowing for changes to uses and activities in existing urban areas that promote economic viability, all of which is consistent with the express purpose of the WRG Overlay Zone.

2. SRC 600.015(a)(2)(L): Ordinary Maintenance

Existing buildings on-site that are planned for adaptive reuse were originally constructed in the early part of the 20th century (approximately 1915) and are primarily concrete structures. A structural analysis of these buildings recommends improving pile bracing for seismic resistance and roof upgrades, among other work, for the buildings to be able to support the proposed and permitted uses. Per SRC 600.015(a)(2)(L), the ordinary maintenance and repair of buildings that existed prior to June 9, 2004, is exempt from review under SRC Chapter 600:

- 600.015 Willamette Greenway development permit.
- (a) Applicability.
 - (2) Exceptions. A greenway development permit is not required for:
 - (L) Ordinary maintenance and repair of buildings, structures, parking lots, or other site improvements that were in existence prior to June 9, 2004

The term “ordinary” is not defined in SRC Section 111.001; therefore, in accordance with SRC 111.001(b), the accepted meaning according to Webster’s *Third New Int’l Dictionary* (unabridged ed. 2002) is understood to be: “occurring or encountered in the usual course of events; not uncommon or exceptional; not remarkable; routine, normal.”

The purpose of this code section is to encourage and not discourage property owners to keep their properties safely maintained to avoid blighted conditions and damage to human health and the environment. Routine maintenance and repair of concrete buildings, foundations, and their support structures is necessary to ensure safe use and optimum longevity of these structures. Therefore, the City should find that maintenance to the existing walls, roof structures, and foundation systems of the existing on-site buildings intended for adaptive reuse is *usual* and *routine* for the proper performance of these buildings and such maintenance activities, including related work necessary to adapt these buildings to current building code standards, are excepted from review under SRC Chapter 600, per Section 600.015(a)(2)(L).

3. SRC 600.015(a)(1) and (2): Uses and activities excepted from review under SRC Chapter 600

SRC Section 600.015(a)(1) requires review under Chapter 600 for any intensification, change of use, or development within the WRG Overlay Zone which occurs after December 6, 1975. Change of use, development, and intensification are defined in SRC 600.005 and OAR 660-015-0005 as follows:

Change of Use means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975 and under which substantial construction has been undertaken by July 1, 1976. The sale of the property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this Goal.

Development means to conduct mining, landfill, or excavation; to make a physical change in the use or appearance of land; to divide land into lots or parcels; to construct improvements requiring a building permit if such improvements are not part of existing structures; to clear land if such clearance requires a permit under SRC Chapter 808; or to create or terminate a right of access.

Intensification means any additions which increase or expand the area or level of activity of an existing use or activity; or any remodeling of the exterior of a structure which will substantially alter the appearance of the structure. For the purposes of this definition, "intensification" does not include: (a) Completion of a structure for which a valid permit has been issued as of December 6, 1975, and under which substantial construction has been undertaken by July 1, 1976; (b) Maintenance and repair, usual and necessary for the continuance of an existing use; (c) Reasonable emergency procedures necessary for the safety or protection of property; or (d) Seasonal increases in gravel operations.

Taken together, these definitions exclude the following uses and activities from review under SRC Chapter 600:

- A change of use of a building or structure that is within the building footprint and does not substantially alter or affect the land or water upon which it is situated;
- Modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the existing improvements that will enhance public use and enjoyment;
- The construction of improvements requiring a building permit where such improvements are part of existing structures;
- Additions which do not increase or expand the area or level of activity of an existing use or activity;
- Remodeling of the exterior of a structure that will not substantially alter the appearance of the structure; and
- Maintenance and repair usual and necessary for the continuance of an existing use.

This threshold for applicability under SRC Chapter 600 is in addition to a separate list of exceptions in SRC 600.015(a)(2). The Applicant requests that the City interpret SRC 600.015(a) to except from review under Chapter 600 those uses and activities in SRC 600.015(a)(2), as well as those uses and activities listed above,

and for which are not considered a change of use, intensification, or development as per 600.015(a)(1) and OAR 660-015-0005.

Excepting these uses and activities is consistent with the plain language of the SRC and the purpose of the WRG, particularly the statements provided in SRC 600.001(b), (e), and (g):

600.001 Purpose.

(...)

(b) To implement the goals and policies of the comprehensive plan, the Willamette River Greenway Plan, and Goal 15 of the statewide planning goals.

(...)

(e) To allow for use and development consistent with the underlying land use designation while preserving, protecting, and enhancing the scenic qualities of the river and the riparian area.

(...)

(g) To ensure that land use and activities which make use of the riparian area are limited to moderate impact on that environment, and do not endanger it.

(...)

As outlined above, clarifying these uses and activities that are excepted from review under SRC Chapter 600, helps achieve the mutual objectives of natural resource preservation and economic development which establish the basis for the State and local WRG guidance.

Finally, subjective language (e.g., “does not substantially alter...,” “...facilities as are usual and necessary to the use and enjoyment...,” and “...will not substantially alter the appearance of the structure”) is prevalent throughout the definitions for change of use, intensification, and development. Therefore, the Applicant additionally requests that the City interpret these terms as follows:

- *A change of use of a building which does not substantially alter or affect the land or water upon which it is situated.*

The Applicant requests that, for the reasons enumerated above (alterations to the building footprint), that the City interpret such change to be that which does not permanently increase ground or water disturbing activities and/or permanently increase the area of the footprint of an existing building.

- *Modification of existing structures or the construction or placement of subsidiary structures or facilities that are usual and necessary to the use and enjoyment of existing improvements.*

The Applicant requests that the City interpret this term to mean such modifications to existing structures or the construction or placement of new structures that are related to existing structures and which result in no net increase in permanent ground disturbing activity and/or do not result in a net permanent increase in the area of the footprint of an existing building.

- *Remodeling of the exterior of a structure which does not substantially alter the appearance of the structure.*

The Applicant requests that the City interpret this term to mean such exterior alterations that do not increase permanent ground disturbing activity and/or permanently increase the area of the footprint of an existing building. This interpretation is consistent with SRC 600.015(a)(2)(J) which explicitly exempts from review under SRC Chapter 600, "Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint." Further, the changes to the cosmetic appearance of buildings is regulated by standards in the underlying Zone, which requires compatibility with adjacent uses and activities. If WRG review were interpreted to apply to most/all cosmetic building changes, it would create a disincentive for property owners to make cosmetic enhancements to existing buildings in the WRG, which is surely inconsistent with the purpose to promote the continuation of urban uses in this area.

These clarifications and interpretations are well within the plain meaning of the relevant code provisions, consistent with the context of the regulations, and give meaning and internal consistency to all of the relevant provisions. These interpretations will allow the continuation of existing buildings with a reduced footprint and appropriately balance economic objectives with Greenway preservation.

The above-requested interpretations/clarifications are necessary to continue to move forward with this exciting opportunity to bring much needed housing and jobs to this infill site on Salem's downtown riverfront. Thank you for your consideration and please reach out with any questions. We can provide any additional interpretive analysis if you determine that is necessary.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC

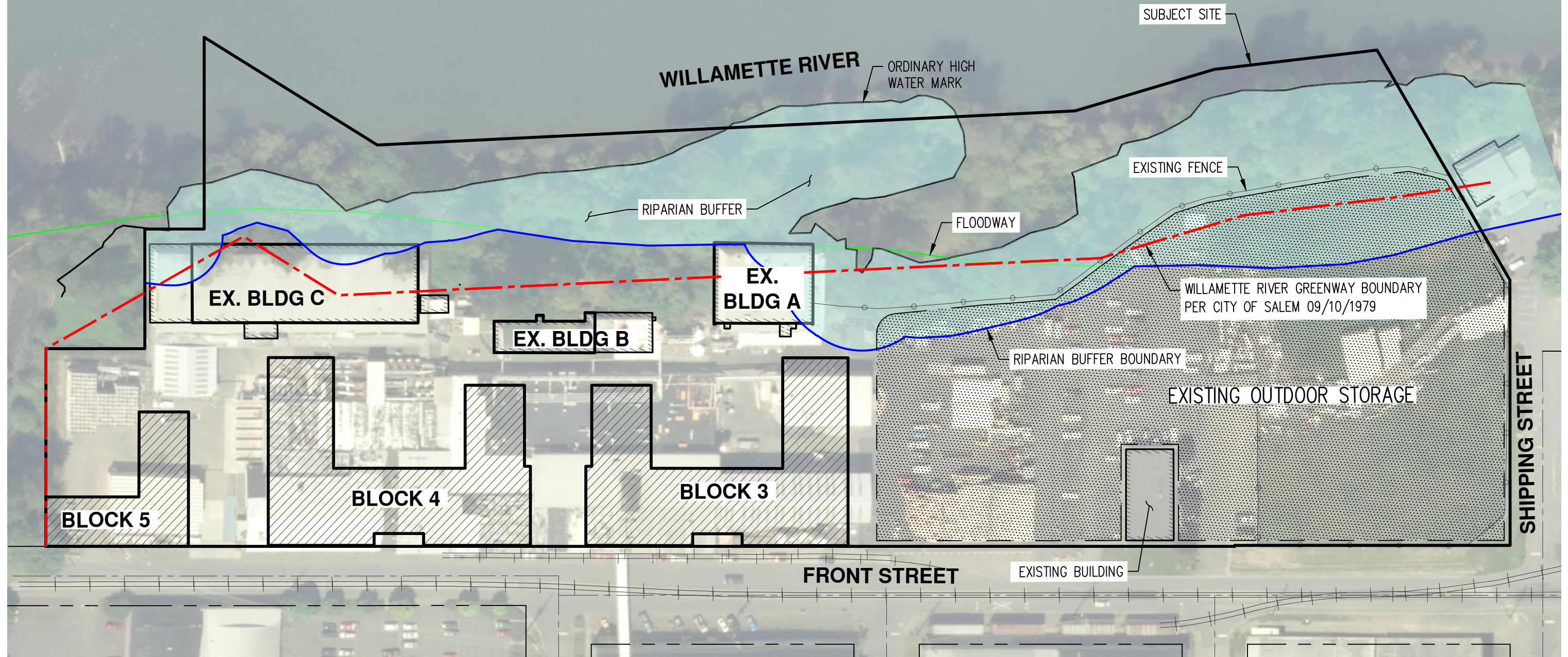


Zach Pelz, AICP
Land Use Planner
3700 River Road N, Suite 10
Keizer, OR 97303
(503) 400-6028 | pelzz@aks-eng.com



Attachments:

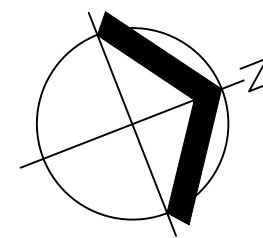
- Preliminary Site Plan
- Oregon Statewide Planning Goal 15 (full text) – OAR 660-015-0005
- Salem WRG Plan

Attachment C



LEGEND

-  PLANNED MIXED-USE REDEVELOPMENT
-  EXISTING OUTDOOR STORAGE



SCALE: 1" = 100 FEET



ORIGINAL PAGE SIZE: 11" x 17"

DATE: 04/06/2023

1105 FRONT ST NE - URBANIZED AREAS WITHIN THE WILLAMETTE RIVER GREENWAY

ATTACHMENT

THE CANNERY

A

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 KEIZER, OR 97303
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Oregon's Statewide Planning Goals & Guidelines

GOAL 15: WILLAMETTE RIVER GREENWAY

OAR 660-015-0005

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

A. GENERAL

1. The qualities of the Willamette River Greenway shall be protected, conserved, enhanced and maintained consistent with the lawful uses present on December 6, 1975. Intensification of uses, changes in use or developments may be permitted after this date only when they are consistent with the Willamette Greenway Statute, this goal, the interim goals in ORS 215.515(1) and the statewide planning goals, as the case may be, and when such changes have been approved as provided in the Preliminary Greenway Plan or similar provisions in the completed plan as appropriate.

2. The Willamette Greenway Program shall be composed of cooperative local and state government plans for the protection, conservation, enhancement and maintenance of the Greenway, and of implementation measures including management through ordinances, rules, regulations, permits, grants as well as acquisition and development of property, etc. It shall also become a part of all other local and state plans and programs within and near the Greenway.

3. The Greenway Program shall include:

- a. Boundaries within which special Greenway considerations shall be taken into account;
- b. Management of uses on lands within and near the Greenway to maintain the qualities of the Greenway;
- c. Acquisition of lands or interests in lands from a donor or willing seller or as otherwise provided by law in areas where the public's need can be met by public ownership.

B. INVENTORIES AND DATA

Information and data shall be collected to determine the nature and extent of the resources, uses and rights associated directly with the Willamette River Greenway. These inventories are for the purpose of determining which lands are suitable or necessary for inclusion within the Willamette River Greenway Boundaries and to develop the plans and management and acquisition programs.

Each of the following items shall be inventoried¹ as it relates to the Greenway objectives:

1. All agricultural lands as provided in Goal 3. This includes all land currently in farm use as defined in ORS Chapter 215.203(2);
2. All current aggregate excavation and processing sites, and all known extractable aggregate sources;

¹ When information on such items is not available through previous studies, information will be maintained by the agencies for those portions of the plan for which they are responsible. This requirement shall not limit units of government from collecting information on other items.

3. All current public recreation sites, including public access points to the river and hunting and fishing areas;
4. Historical and archaeological sites;
5. Timber resources;
6. Significant natural and scenic areas, and vegetative cover;
7. Fish and wildlife habitats;
8. Areas of annual flooding and flood plains;
9. Land currently committed to industrial, commercial and residential uses;
10. The ownership of property, including riparian rights;
11. Hydrological conditions;
12. Ecologically fragile areas;
13. Recreational needs as set forth in Goal 8;
14. Other uses of land and water in or near the Greenway;
15. Acquisition areas which include the identification of areas suitable for protection or preservation through public acquisition of lands or an interest in land. Such acquisition areas shall include the following:
 - a. Areas which may suitably be protected by scenic easements;
 - b. Scenic and recreational land for exclusive use of the public;
 - c. Sites for the preservation and restoration of historic places;
 - d. Public access corridor;
 - e. Public parks;
 - f. Ecologically fragile areas; and
 - g. Other areas which are desirable for public acquisition may also be identified if the reasons for public acquisition for the Greenway are also identified.

C. CONSIDERATIONS AND REQUIREMENTS

The Oregon Department of Transportation (DOT) Greenway Plan, the portions of each city and county comprehensive plan within the Greenway, and the portions of plans and programs and implementation measures of all special districts, state and federal agencies within the Greenway shall be based on the following factors:

1. General Considerations and Requirements

- a. Statutory requirements in ORS Chapter 390.010 to 390.220 and in ORS Chapter 390.310 to 390.368;
- b. City, county and regional comprehensive plans adopted pursuant to ORS Chapter 197 for jurisdictions along the river;
- c. Statewide planning goals and guidelines adopted pursuant to ORS Chapter 197 by LCDC;
- d. Interim goals set forth in ORS Chapter 215.515(1).

2. Boundary Considerations and Requirements.²

The temporary and preliminary Greenway boundaries shall be reviewed as to their appropriateness and refined as needed based on the information contained in the inventories. The refined boundaries shall include such lands along the Willamette River as are necessary to carry out the purpose and intent of the Willamette River Greenway through a coordinated management and acquisition program.

² See ORS Chapter 390.318(1) for specific statutory language..."There shall be include within the boundaries of the Willamette River Greenway all lands situation with 150 feet from the ordinary low water line on each side of each channel of the Willamette River and such other lands along the Willamette River as the development of such Greenway; however, the total area included within the boundaries of such Greenway shall not exceed, on the average, 320 acres per river mile along the Willamette River, however, for the purpose of computing the maximum acreage of lands within such Greenway, the acreage of lands situated on such islands and within state parks and recreation areas shall be excluded."

Within farm areas, consideration shall be given to the ability of agricultural land adjacent to the Willamette River Greenway to enhance and protect the Greenway.

3. Use Management Considerations and Requirements. Plans and implementation measures shall provide for the following:

a. **Agricultural lands** -- The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);

b. **Recreation** --

(1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land;

(2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use as defined in ORS 215.203;

(3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;

(4) The public parks established by section 8a of Chapter 558, 1973 Oregon Laws, shall be set forth in Oregon Laws, shall be set forth on the appropriate comprehensive plans and zoning

established which will permit their development, use and maintenance;

c. **Access** -- Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;

d. **Fish and wildlife habitat** -- Significant fish and wildlife habitats shall be protected;

e. **Scenic qualities and views** -- identified scenic qualities and viewpoints shall be preserved;

f. **Protection and safety** -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;

g. **Vegetative fringe** -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;

h. **Timber resource** -- The partial harvest of timber shall be permitted beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Forest Practices Act, or, if not covered by the Forest Practices Act, then with an approved plan under the Greenway compatibility review provisions. Such plan shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time;

i. **Aggregate extraction** -- Extraction of known aggregate deposits may be permitted when compatible with the purposes of the Willamette River Greenway and when economically feasible, subject to compliance with

ORS 541.605 to 541.695; ORS 517.750 to 517.900 and subject to compliance with local regulations designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, streamflow, visual quality, noise, safety and to guarantee necessary reclamation;

j. **Development away from river** -- Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities;

k. **Greenway setback** -- A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

4. Areas to be Acquired -- Considerations and Requirements

Areas to be acquired must:

- a. Have potential to serve the purposes of the Greenway;
- b. To the maximum extent practicable, be consistent with non-interference or non-interruption of farm uses as defined in ORS Chapter 215.203(2);
- c. Be suitable for permitting the enforcement of existing statutes relating to trespass and vandalism along the Greenway, and be suitable for allowing maintenance of the lands or interests acquired.

D. DOT GREENWAY PLAN

The DOT will prepare and keep current, through appropriate revisions, a Greenway Plan setting forth the state interests in the Greenway. The plan will show:

1. The boundaries of the Willamette River Greenway;
2. The boundaries of the areas in which interests in property may be acquired. These shall be depicted clearly on maps or photographs together with the nature of the acquisition such as fee title or scenic easement; the general public purposes of each such area, and the conditions under which such acquisition may occur.
3. Use Intensity Classifications for the areas acquired by the State for Greenway purposes; and
4. The locations of public access, either already existing or to be acquired.

The DOT plan or revision thereto will be reviewed by the Land Conservation and Development Commission (LCDC) as provided in ORS 390.322. When the Commission has determined that the revision is consistent with the statutes and this goal it shall approve the plan for recording.

E. COMPREHENSIVE PLANS OF CITIES AND COUNTIES

Each city and county in which the Willamette River Greenway is located, shall incorporate the portions of the approved DOT Greenway Plan in its comprehensive plan and implementing ordinances and other implementation measures.

1. **Boundaries:** Boundaries of the approved Willamette River Greenway shall be shown on every comprehensive plan.

2. **Uses:** Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes and this Goal.

3. **Acquisition Areas:** Each comprehensive plan shall designate areas identified for possible public acquisition and the conditions under which such acquisition may occur as set forth in the approved DOT Willamette Greenway Plan and any other area which the city or county intends to acquire.

F. IMPLEMENTATION MEASURES

Implementation of the Greenway Program shall occur through the cooperative efforts of state and local units of government and shall be consistent with the approved DOT Greenway Plan and the city and county comprehensive plans, the goals and appropriate statutes.

1. **Boundaries:** Willamette River Greenway boundaries shall be shown on city and county zoning maps and referred to in the zoning ordinance and the subdivision ordinance.

2. **Uses:** Measures for managing uses within the Greenway shall include at least:

- a. Exclusive farm use zoning of all agricultural land within and adjacent to the Greenway;
- b. Flood plain zoning of all areas subject to flooding;
- c. Open space zoning (see ORS Chapter 308.740) of all open space areas; and
- d. Provisions for the use management considerations and requirements set forth in C3 of this Goal.

3. Greenway Compatibility

Review: Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in **a** through **e** below:

a. The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

b. The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree:

- (1) The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river;
- (2) Necessary public access will be provided to and along the river by appropriate legal means;
- c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;
- d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to

any individual or groups requesting notice; and

e. Provision is made to allow the imposing of conditions on the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.

f. As an alternative to the review procedures in subparagraphs 3(a) to 3(e), a city or county governing body may prepare and adopt, after public hearing and notice thereof to DOT, a design plan and administrative review procedure for a portion of the Greenway. Such design plan must provide for findings equivalent to those required in subparagraphs 3(b)(1) and (2) of paragraph F so as to insure compatibility with the Greenway of proposed intensification, changes of use or developments. If this alternative procedure is adopted and approved by DOT and LCDC, a hearing will not be required on each individual application.

G. NOTICE OF PROPOSED INTENSIFICATION, CHANGE OF USE OR DEVELOPMENT

Government agencies, including cities, counties, state agencies, federal agencies, special districts, etc., shall not authorize or allow intensification, change of use or development on lands within the boundaries of the Willamette River Greenway compatibility review area established by cities and counties as required by paragraph F 3.a. without first giving written notice to the DOT by immediately forwarding a copy of any application by certified mail--return receipt requested. Notice of the action taken by federal, state, city, county, and special districts on an application shall be furnished to DOT.

H. AGENCY JURISDICTION

Nothing in this order is intended to interfere with the duties, powers and responsibilities vested by statute in agencies to control or regulate activities on lands or waters within the boundaries of the Greenway so long as the exercise of the authority is consistent with the legislative policy set forth in ORS 390.310 to 390.368 and the applicable statewide planning goal for the Willamette River Greenway, as the case may be. An agency receiving an application for a permit to conduct an activity on lands or waters within the Greenway shall immediately forward a copy of such request to the Department of Transportation.

I. DOT SCENIC EASEMENTS

Nothing in this Goal is intended to alter the authority of DOT to acquire property or a scenic easement therein as set forth in ORS 390.310 to 390.368.

J. TRESPASS BY PUBLIC

Nothing in this Goal is intended to authorize public use of private property. Public use of private property is a trespass unless appropriate easements and access have been acquired in allowance with law to authorize such use.

K. DEFINITIONS FOR WILLAMETTE RIVER GREENWAY GOAL

1. ***Change of Use*** means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially

alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit had been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.

Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this Goal.

2. **Lands Committed to Urban**

Use means those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans and similar public actions.

3. **Intensification** means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the

completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976.

Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this Goal. Seasonal increases in gravel operations shall not be considered an intensification of use.

WILLAMETTE RIVER GREENWAY PLAN

CITY OF SALEM
September 10, 1979

I. INTRODUCTION

The Oregon Legislature provided for establishment of the Willamette River Greenway Program in 1973 by enactment of Oregon Revised Statutes 390.310-390.368. The Greenway legislation was unique in that it mandated development and maintenance of the Greenway through the cooperative efforts of State agencies and local governments. Actual coordination of such efforts rests with the Oregon Department of Transportation (DOT). DOT was directed to prepare a plan for the Greenway in cooperation with units of local governments. The Land Conservation and Development Commission (LCDC) has the responsibility to approve, reject or modify the DOT Greenway Plan and to respond to violations of the Greenway Law and Goal. Local government is required to do the following:

- A. Recommend revised Greenway boundaries within its jurisdiction.
- B. Incorporate portions of the approved DOT Greenway Plan into the Comprehensive Plan.
- C. Prepare Greenway implementing ordinances and measures based on approved Greenway policies.

II. PURPOSE

This document presents Salem's Willamette River Greenway Plan which is an element of the Salem Area Comprehensive Plan. The Greenway Plan includes portions of the Greenway approved by DOT within the Salem city limits. In addition to complying with State law, the purpose of the Salem Greenway Plan is to achieve the following objectives:

- A. To protect and enhance the natural, scenic, recreational, historical and economic resources of the Willamette River corridor.
- B. To make the natural, scenic, recreational, historical and economic resources available for the proper use and enjoyment of the Salem urban area resident.
- C. To balance the needs and demands of commerce, industry and people for access to the unique resources of the river.
- D. To allow for use and development consistent with the Greenway concept and the Salem Area Comprehensive Plan policies.
- E. To allow and encourage a variety of recreational developments and types of public access to and along the river while preserving, protecting and enhancing the scenic qualities of the river and the riparian environment.

III. THE WILLAMETTE RIVER GREENWAY PLAN

The Salem Greenway Plan is a design plan and administrative review procedure that must be adopted and approved by DOT and LCDC. Any land owner located within the Greenway boundary who desires to change or intensify the use of his property must, before taking any action, apply for a Conditional Use Permit. The Salem Planning Commission will hold a Public Hearing on the permit. The Greenway Plan is to be implemented through Chapter 120 of Salem Revised Statutes.

The following segments are considered elements of the Salem Greenway Plan.

A. Salem Area Comprehensive Plan Goals and Policies.

Willamette River Greenway:

GOAL: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River.

POLICIES:

1. Regulations shall be adopted to control the use of land and the intensity of uses within the Willamette River Greenway Boundary.
2. Riparian vegetation and wildlife within the Greenway Boundary shall be conserved. Conservation shall include protecting and managing riverbanks, sloughs, wildlife and vegetation.
3. Scenic easements shall be used where practical to preserve and enhance the character of the river within the Greenway Boundary.
4. Where private property is adjacent to public use areas, measures shall be taken to minimize disturbance to the private property.
5. Development and redevelopment within the Greenway Boundary should include provisions for public access to and along the river.
6. Existing parks within the Greenway Boundary shall be preserved and maintained. Additional sites for recreation and scenic views and access to the Willamette River should be acquired.
7. New development and changes of land uses which are compatible with the Greenway concept as defined in the State Land Use Goal may be permitted along the Willamette River.
8. The review of proposed land use changes shall include the establishment of an appropriate setback from the Willamette River.
9. Aggregate extraction may be permitted within the river channel and on lands adjacent, when determined to be compatible with the purpose of the Greenway. Proposed extraction activities shall be designed to minimize the adverse effects of water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality noise and potential land use.

10. The harvest of timber will be conducted in a manner which will ensure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time.
11. The continued dredging of the Willamette River shall be encouraged for the purpose of channel maintenance, bank stabilization, and to facilitate commercial river traffic and recreational boating. Dredging operations should minimize the adverse impact on existing fish and wildlife habitat, riverbank vegetation and public and private property.

River-Oriented Mixed Uses Area:

GOAL: To increase riverfront development opportunities for a combination of urban uses that take advantage of the scenic, natural and recreational qualities of the riverfront.

POLICIES:

1. Visual access should be provided to the riverfront from buildings through the provision of such design features as: waterfront orientation of building layout, windows, balconies and lanais.
2. Visual access and a sense of openness should be provided by maximizing the open space between buildings and between buildings and the river.
3. The development of uses relating to the river for recreation and scenic enjoyment should be encouraged.
4. Conservation of mature ground cover and trees, wildlife habitats and the natural contours and exposure of the riverbank shall be assured through the careful placement of buildings and related site improvements such as parking areas.
5. Transition of the waterfront to a mixture of commercial, office and high density residential uses shall be encouraged, while allowing for the continuation of existing industries. Expansion of existing industries may be permitted only if such expansion is necessary to ensure continuation, or to comply with federal or state requirements.
6. New development should be designed in a manner that does not encroach upon the continued operation of adjoining higher intensity uses and is compatible with adjacent residential neighborhoods.

B. Plan Designations

There are two plan designations within the Greenway Plan:

1. Greenway Public Recreation District

2. Greenway Development District

1. Greenway Public Recreation District delineates areas of publicly owned park land along the Willamette River within Salem city limits. Descriptions of these parks are provided in the inventory segment of this document. Any public agency which proposes a change, or an intensification of a land use within the Recreation District, shall provide findings that:
 - a. The proposal is for uses directly related to recreation;
 - b. Proposed non-water-related recreational developments maximize, to the greatest extent possible, the retention of riparian vegetation between the activity and the river. This provision shall not apply to water-related or water-dependent recreational uses;
 - c. Developments within 150 feet of the Willamette River or Slough shall give due consideration to the provision of public access.
2. The Greenway Development District delineates an area wherein lands are committed to urban uses.

In this district there are a variety of uses, primarily commercial and industrial. These lands which are committed to urban uses shall be permitted to continue as such.

Review criteria regarding a change, or an intensification of a land use within the Development District, are contained in Chapter 120 of Salem Revised Statutes.

IV. LAND USE INVENTORY AND BACKGROUND DATA

A detailed inventory was made of lands along the river to use in developing Salem's Willamette River Greenway Plan. The results of that inventory are contained in the following report:

Salem Urban Area Plan Update, Willamette River
Greenway Plan, Inventories and Data, July, 1976,
prepared by the Department of Community Development,
Planning Division, City of Salem.

A summary of the inventory data follows.

1. Agricultural Lands - There are no agricultural lands within the Salem Greenway Boundaries.
2. Aggregate Excavation and Processing Sites - Two general locations within the Greenway area are considered as potential sources of gravel - bar and channel areas of the Willamette River and present floodplain areas.

3. Public Recreation Sites, including public access points to the river - Within the Greenway area, there are two regional parks and three urban parks: Minto Island Park, Wallace Marine Park, Marion Square Park, Fairmont Overlook Park and River Road Park.
4. Historical and Archaeological Areas - There is one historic building, the Gilbert House, within the Greenway boundaries. There are no identified archeological sites within the boundaries.
5. Timber Resources - There are no identified forest lands within Salem's Greenway Boundaries.
6. Significant Natural and Scenic Areas, and Vegetative Cover - The riparian vegetation located on Minto Island, the floodplain of West Salem, and the east bank of the Willamette River are considered valuable natural resources. These resources are not considered unique or significant in the sense of unusual vegetation.
7. Fish and Wildlife Habitats - The principal fishery habitat in the Greenway area is the Willamette River.

The principal wildlife habitats are found in the forest and riparian vegetation areas of Minto Island and in certain segments of the West Salem floodplain. The natural vegetation of the east bank provides a limited habitat suitable for small mammals and many birds. The habitat increases in suitability as distance increases away from the city center, especially along the Willamette Slough where the Burlington Northern Railway creates a distinct boundary between urban and non-urban environments.

8. Areas of Annual Flooding and Floodplains - Much of the Greenway area is situated within the 100 year floodplain.
9. Land Currently Committed to Industrial, Commercial and Residential Uses - Land uses within the Willamette Greenway can be differentiated into three geographically separate areas; each has distinct patterns. In West Salem, the Greenway is predominantly occupied by parks and open space, the bridge ramps, street right-of-way, linear park and vacant land.

Minto Island is exclusively designated for park and open space. An agricultural field and a peach orchard are temporarily leased until a full development of the area as a regional park takes place.

The existing land uses within the Greenway on the east bank of the Willamette River are extremely varied. The diversity of uses includes a portion of the Central Business District, industrial uses and established residential areas in North Salem.

10. Ownership of Property - The Willamette River Greenway covers approximately 569 acres on both sides of the river and Minto Island. Approximately 473 acres or 83 percent is in public ownership, the remaining 96 acres or 17 percent is privately owned.

11. Hydrological Conditions - The principal surface waters in the Greenway area are the following:
 - a. The portion of the Willamette River in the Salem area;
 - b. The Willamette Slough;
 - c. The lower parts of Pringle Creek and Mill Creek;
 - d. The pools and channels in the West Salem floodplain.

Flood control reservoirs are operated to even out the flow of water in the Willamette River. Large runoffs are stored to reduce flooding and are later released to maintain minimum flows during periods of low runoff.

12. Ecologically Fragile Areas - The Minto-Brown Island Wildlife Refuge is considered a valuable biological area for the preservation and enhancement of waterfowl habitat.

In addition to being a waterfowl habitat, Minto Island supports a large population of songbirds, both resident and migrant.

Even though the island does not contain habitat critical to the survival of blacktail deer, it does support unknown numbers along with other mammals that are found mainly on Minto-Brown Island.

13. Recreational Needs As Set Forth in Goal 8 - The recreational needs for the entire Salem Urban Area have been identified as set forth in the LCDC Goal 8 through two studies: Regional Parks and Recreation Facilities Plan, Needs and Opportunities; and Park and Recreation Technical Study.

14. Other Uses of Land and Water in or near the Greenway - In addition to the residential, commercial and industrial activities, several other uses are located within the Greenway. A substantial portion of the Greenway area is devoted for public uses. Nearly 473 acres or 83 percent of the entire Greenway is publicly owned and used or planned to be used for public facilities. These uses include the following:

- a. On the west bank of the river: Wallace Marine Park, bridges, ramps and approaches, a linear park along Edgewater Street between Wallace Road and Rosemont Avenue and street rights-of-way.
- b. On the east bank of the river: River Road Park, Marion Square Park, Fairmont Overlook Park, Minto Island Park and street rights-of-way.

The use of Willamette River within the Greenway for recreational activities is concentrated on water-oriented activities at Wallace Marine Park.

One water-oriented commercial use exists within the Greenway.

Bridges Marine is located on Water Street at Chemeketa Street.

15. Publicly-Owned Access Locations - Residents of the Salem Area have access to the river and the Greenway at the following locations:
 - a. Wallace Marine Park on the west side of the river, and at Minto Island Park and River Road Park on the east side.
 - b. Mouth of Mill Creek - The City owns a small parcel immediately south of Truitt Brothers' property. It is too small and isolated to be developed into a neighborhood park, but it can serve as an access point to the river.
 - c. West of Front Street between Court and Marion Streets - The Salem Urban Renewal Agency has acquired all but one acre of the area for redevelopment. Part of the area is planned for public use and park for both active and passive enjoyment of the river.

V. DESCRIPTION OF THE SALEM WILLAMETTE RIVER GREENWAY BOUNDARY (This is the overall Greenway Boundary established pursuant to LCDC Goal 15 and ORS 390.318. See Section VI for the Greenway Compatibility Review Boundary for purposes of SRC Chapter 125).

West Bank, in Polk County

From the northeast corner of Wallace Marine Park along the common boundary of the City limits and Wallace Marine Park to the railroad tracks; then

Along the northwest side of Musgrave Street, including approaches to the bridges and the access to Wallace Marine Park, to Wallace Road; then

From Wallace Road along the southwest side of Edgewater Street to its intersection with the off-ramp from the Salem-Dallas highway near Capitol Manor; then east along the south side of that highway right-of-way to its intersection with the Willamette River.

East Bank, in Marion County

From the north City limits at Stark Street south along the west side of Willamette Drive N to and including all of River Road Park, then

From River Road Park southern boundary along the west side of Island View Drive and continuing south along a line which is about 150 feet from the ordinary low water line to Columbia Street; then

East along the south side of Columbia Street to the west side of Front Street; then

South along the west side of Front Street to the north side of River Street; then

West along the north side of River Street to the alley; then

South along the west side of the alley to the south side of South Street; then

West to a point which is about 150 feet from the ordinary low water line of the Willamette River; then

South along the 150-foot line to a point which is approximately the south boundary of the Truitt Brothers' Cannery; then

East to the west side of Front Street; then

South to the south side of Division Street; then

West to the alley; then

South to the south side of Union Street; then

East to the west side of Commercial Street; then

South to the south side of Marion Street; then

West to the west side of the new right-of-way of Front Street; then

South to the south side of Court Street; then

West to a point which is approximately 150 feet from the ordinary low water line; then

South along the approximate 150-foot line and the east side of the railroad tracks to Mission Street; then

South along the east side of the railroad right-of-way to Owens Street; then

South along the east side of River Road to and including Fairmont Park; and

Including Minto Island Park.

The above description is based on the boundary of the Willamette Greenway as shown on the aerial photo prints prepared by the Oregon State Highway Division, Department of Transportation, sheets 42 to 47 of 107, Marion-Polk Counties. Approximate scale: 1" = 400', aerial photography of January, 1974.

These photo prints can be referred to for the location of the Greenway Boundary where the Boundary does not follow a clearly defined physical feature.

Where there are differences between the boundary description and the line shown on the photo prints, the description should be used. The Greenway Boundary approved by the Salem City Council and the State Land Conservation and Development Commission revised the originally proposed boundary to include:

1. Additional land between Marion and Court Streets;
2. Fairmont Part;
3. All of Minto Island Park.

The photo prints are available for reference in the Salem Planning Division office.

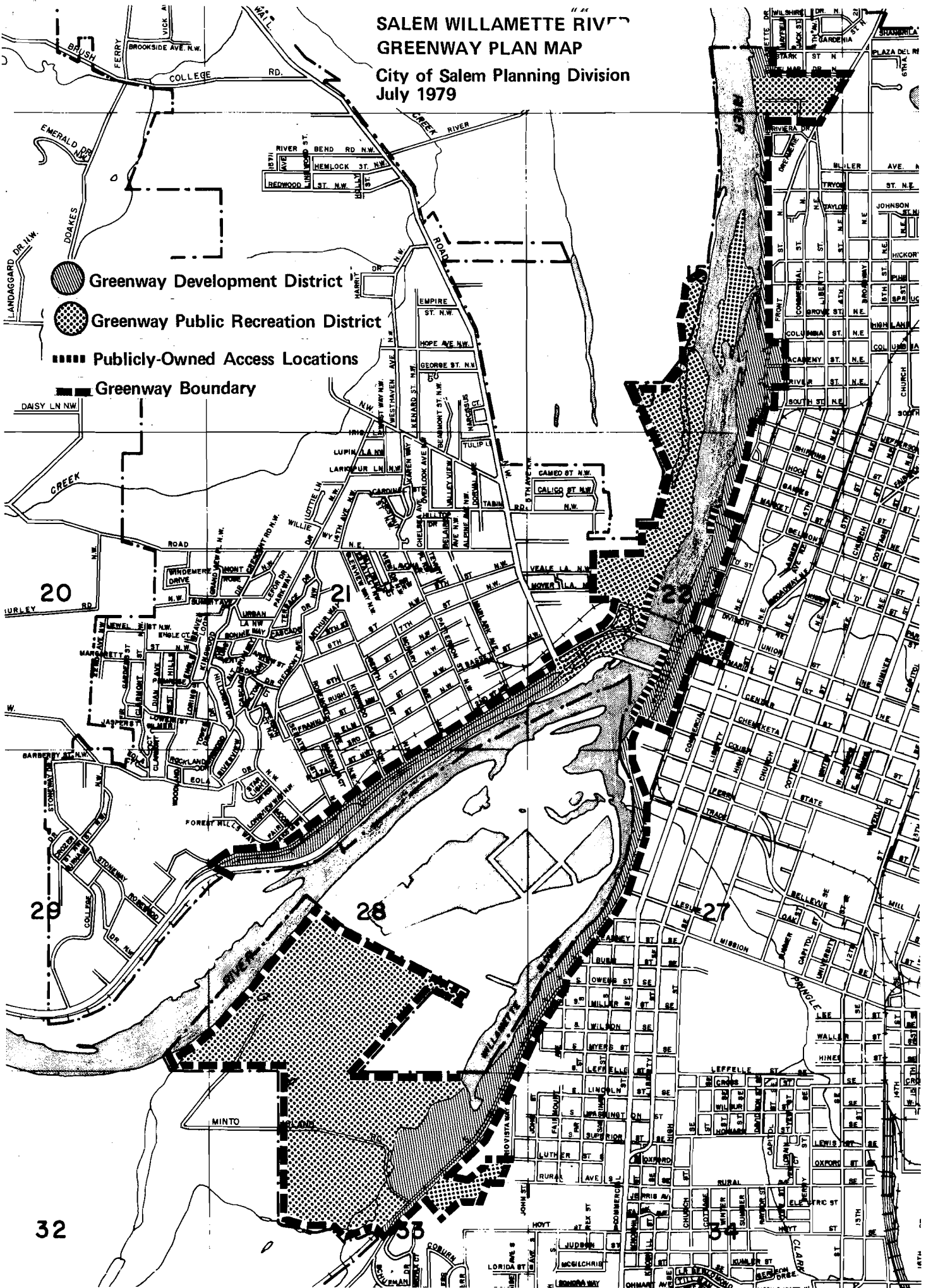
VI. DESCRIPTION OF WILLAMETTE RIVER GREENWAY COMPATIBILITY REVIEW BOUNDARY
(This is the compatibility review boundary within which development, intensification or change of use must comply with and be reviewed under SRC Chapter 125.)





The compatibility review boundary is identical to the overall Greenway Boundary described in Section V of this Plan save and except for the exclusion of the following described property:

Parcel 1. Beginning at the Southeast corner of Lot 8, Block 1, Mill Addition to the City of Salem, Marion County, Oregon, thence South 19 degrees 30 minutes West a distance of 85.0 feet to the true point of beginning; thence North 70 degrees 30 minutes West a distance of 200.0 feet; thence North 19 degrees 30 minutes East a distance of 100.0 feet; thence South 70 degrees 30 minutes East a distance of 200.0 feet; thence South 19 degrees 30 minutes West a distance of 100.0 feet to the true point of beginning. Said parcel containing 0.46 acres, more or less.

SALEM WILLAMETTE RIVER GREENWAY PLAN MAP

City of Salem Planning Division
July 1979



-  Greenway Development District
-  Greenway Public Recreation District
-  Publicly-Owned Access Locations
-  Greenway Boundary

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