

TO: Hearings Officer

FROM: Lisa Anderson-Ogilvie, AICP, Planning Administrator

STAFF: Christopher Green, Planner II

HEARING DATE: November 18, 2015

APPLICATION: Zone Change/Partition 15-04

LOCATION: 3155-3175 River Road S

SIZE: Approximately 1.89 acres – see Attachment A

REQUEST: A consolidated application containing the following requests:

- (1) To change the zoning of that portion of the subject property zoned CR (Retail Commercial) to CO (Commercial Office); and
- (2) A partition to divide approximately 1.89 acres into three parcels, with proposed Parcel 1 consisting of approximately 45,385 square feet, proposed Parcel 2 consisting of 17,214 square feet, and proposed Parcel 3 consisting of 19,729 square feet.

The subject property is approximately 1.89 acres in size, currently zoned CR (Retail Commercial) and RA (Residential Agriculture), and located at 3155 River Road S (Marion County Assessor Map and Tax Lot Number: 083W05AA00100).

APPLICANT: River Building, LLC

APPROVAL CRITERIA: Zoning Map Amendment: Salem Revised Code, Ch. 265
Partition: Salem Revised Code, Ch. 205

RECOMMENDATION: APPROVE

BACKGROUND

On October 9, 2015, a consolidated zone change and partition application was filed for the subject property by Terrence Kay on behalf of applicant/property owner River Building LLC to change the zoning on the eastern portion of the subject property from CR (Retail Commercial) to CO (Commercial Office), and to partition the full extent of the 1.89 acre subject property into three parcels. The application was deemed complete for processing on October 27, 2015.

The state-mandated 120-deadline to issue a final local decision in this case is February 24, 2016.

PROPOSAL

The applicant has submitted a consolidated application requesting to change the zoning of that portion of the subject property zoned CR (Retail Commercial) to CO (Commercial Office); and a tentative partition plan to divide approximately 1.89 acres into three parcels, with proposed Parcel 1 consisting of approximately 45,385 square feet, proposed Parcel 2 consisting of 17,214 square feet, and proposed Parcel 3 consisting of 19,729 square feet. The change would allow development of single family residences on proposed Parcels 2 and 3 while maintaining the existing office buildings as an allowed use on Parcel 1.

APPLICANT'S STATEMENT

A request for a zone change must be supported by proof that it conforms to all applicable criteria imposed by the Salem Revised Code. The applicant submitted such statements and proof, which are included in their entirety as Attachment D to this staff report. Staff utilized the information from the applicant's statements to evaluate the applicant's proposal and to compose the facts and findings within the staff report.

FACTS AND FINDINGS

1. Salem Area Comprehensive Plan (SACP) Designation

The Salem Area Comprehensive Plan (SACP) map designates the western portion of the subject property as "Developing Residential" and the eastern portion of the property as "Commercial." The Salem Comprehensive Policies Plan describes the intent of the Commercial designation as providing for shopping and service opportunities, including "regional shopping facilities, community and neighborhood shopping and service facilities, convenience stores, commercial offices, and specialized shopping and service facilities."

Because the portion of the subject property proposed for the zone change is designated Commercial on the Comprehensive Plan Map, the a zone change to CO (Commercial Office) does not require a concurrent Comprehensive Plan Map Amendment because the Commercial designation can be implemented by several zones, including the CO zone.

The Comprehensive Plan designations of surrounding properties include:

North:	(Across railroad right-of-way) "Public Open Space"
South:	(Across River Road S) "Single Family Residential"
East:	"Multi-Family Residential"
West:	"Developing Residential"

The boundary of the Urban Service Area runs roughly north-to-south between the eastern and western portions of the property, following the boundaries of commercial and residential Comprehensive Plan Map designations and zones.

2. Zoning of Surrounding Properties

The western portion of the subject property is zoned RA (Residential Agriculture), and the eastern portion is zoned CR (Retail Commercial) (Attachment C). The zoning of surrounding properties is described as follows:

North:	(Across railroad right-of-way) PA (Public Amusement)
South:	(Across River Road S) RA (Residential Agriculture)
East:	RM-2 (Multiple Family Residential)
West:	RS (Single Family Residential)

3. Site Analysis and Parcel Layout

The site consists of a single tax lot approximately 1.89 acres in size. The lot is irregular in shape, and relatively narrow in width (approximately 131 feet) in comparison to a depth of approximately 329 feet. The lot is divided roughly down the middle, north to south, between Developing Residential Comprehensive Plan Map designation with RA zoning and Commercial designation with CR (Retail Commercial) zoning. The tentative partition plan proposes to divide the subject property into three parcels (Attachment B). Proposed Parcel 1, which is approximately 45,385 square feet in size, is located on the south side of the property abutting River Road S. Proposed Parcel 2, which is approximately 17,214 square feet in size, is located in the middle of the subject property. Proposed Parcel 3, which is approximately 19,729 square feet in size, is located on the northern side of the subject property.

Circulation and Access: The south end of the property has frontage on River Road S. The adjacent portion of River Road S is designated as a Minor Arterial in the Salem Transportation System Plan (TSP). The standard for this type of street is a 46-foot-wide improvement within a 72-foot-wide right-of-way. Existing residential developments to the east and west, and the abutting railroad right-of-way to the north preclude connections in these directions. Primary access to the subject property is provided by an existing driveway to River Road S. The applicant proposes to continue this driveway northward as a flag lot accessway to serve proposed parcels 2 and 3.

Trees: The City's tree preservation ordinance, pursuant to SRC 808.035(a), requires tree conservation plans in conjunction with development proposals involving the creation of lots or parcels to be used for the construction of single family or duplex dwelling units, if the development proposal will result in the removal of trees. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves." There are no trees on the portion of the property where new lots are proposed for single family residential development. Therefore, no Tree Conservation Plan is required for the subject request.

Because Croisan Creek abuts the subject property on a portion of the eastern boundary, a riparian corridor is present on the site. The riparian corridor is measured 50 feet horizontally from the top of bank on each side of the waterway. The City's tree preservation ordinance protects heritage trees, significant trees (*including Oregon White Oaks with a diameter-at-breast-height of 24 inches or greater*), trees and vegetation within riparian corridors, and trees on lots or parcels greater than 20,000 square feet. Any future

development of the subject property must comply with the tree preservation requirements of SRC Chapter 808 (Preservation of Trees and Vegetation).

Wetlands: Grading and construction activities within jurisdictional waters of the state are regulated by the Oregon Department of State Lands (DSL) and U.S. Army Corps of Engineers. State and federal wetlands laws are also administered by DSL and the Army Corps of Engineers, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures. The Salem-Keizer Local Wetland Inventory (LWI) does not identify any mapped wetland areas on the subject property.

Floodplain: Croisan Creek flows through the subject property. An existing floodway and floodplain is located on the subject property designated on the Federal Emergency Management Agency floodplain maps. The 100 year base flood elevation is approximately 148.4 feet on the subject property.

Landslide Hazards: The subject property is generally flat. According to the City's adopted landslide hazard susceptibility maps, there are areas of mapped landslide hazard susceptibility points located on the southern portion of the property. Based on the point value associated with the land (2-4 points), a geologic assessment may be required if a regulated development activity is proposed in the mapped landslide hazard area.

4. Neighborhood and Citizen Comments

The subject property is located within the boundaries of SouthWest Association of Neighbors (SWAN). Notification was sent to the neighborhood association on October 29, 2015 and surrounding property owners within 250 feet of the property. As of the date of this staff report, the neighborhood association has not submitted written comments.

All property owners within 250 feet of the subject property were mailed notification of the proposed zone change and partition. At the time of writing this staff report, no comments have been received from adjoining property owners, or citizens at large.

5. City Department and Public Agency Comments

- The Public Works Department reviewed the proposal and submitted comments (see Attachment E).
- Salem Fire Department reviewed the proposal and indicated that current fire hydrant location does not meet the travel distance requirements (400') of the Salem Fire Prevention Code (SRC-58). The comments indicate that an additional fire hydrant or alternate/approved means (such as fire sprinkler system) will be required as part of the building permit approval.
- Salem Police Department reviewed the proposal and indicated that they have no specific comments on this case.

6. Public Agency and Private Service Provider Comments

- Oregon Department of Transportation (ODOT), Rail and Public Transit Division reviewed the proposal and submitted comments expressing concern with the suitability of residential properties next to an active railroad line. ODOT indicated that railroads are a heavy industrial use, which causes many conflicts with residential uses, such as noise, vibration, and odors. The comments suggest that land adjacent to railroads may serve an important purpose to attract industry to the area. The comments also recommend fencing along the north boundary of the subject property to prevent trespassing and general safety issues.

Staff Response: While the proximity of residential uses and existing railroads may result in many of the land use conflicts described by ODOT, the applicant's proposal would add a single additional lot for potential residential use along the rail line. The residential developments immediately to the north and south have several properties abutting the same stretch of rail line, and one further lot would not be out of character for the surrounding area. Although the applicant has indicated intent to develop a residence on proposed Parcel 3, the proposal is for a commercial zone, rather than an exclusively residential one. Staff has found that one and two-family residential uses are the predominant development pattern in the vicinity of the subject property, and the narrow width and limited frontage along River Road S limit the suitability of the subject property for commercial uses. The applicant has not proposed an industrial zone for the subject property, and criterion SRC 265.005(A)(ii) provides that the proposed zone must be equally or better suited to the property than the existing zone – not that the proposed zone is most ideally suited to the subject property.

- Salem-Keizer Public Schools reviewed the proposal and submitted comments indicating that sufficient school capacity exists at the elementary, middle, and high school levels to serve the 2 lots proposed for new development. The school district indicated that elementary, middle, and high school students residing at the subject property would be eligible for school transportation services. The area is not within the "walk zone" of assigned elementary, middle, or high schools.
- Portland General Electric (PGE) reviewed the proposal and indicated that development costs are determined by current tariff and service requirements and that a 10-foot public utility easement (PUE) shall be required on all front street lots.

7. Criteria for Granting a Quasi-Judicial Zone Change

The following analysis addresses the proposed change in base zone of the eastern portion of the subject property from CR (Retail Commercial) to CO (Commercial Office).

SRC Chapter 265.005 provides the criteria for approval for Quasi-Judicial Zone Changes. In order to approve a quasi-judicial Zone Map amendment request, the review authority shall make findings based on evidence provided by the applicant demonstrating that all the following criteria and factors are satisfied. The extent of the consideration given to the various factors set forth below will depend on the degree of impact of the proposed change, and the greater the impact of a proposal on the area, the greater is the burden on the applicant to demonstrate that, in weighing all the factors, the zone change is appropriate.

The applicable criteria and factors are stated below in **bold** print. Following each criterion is a response and/or finding relative to the amendment requested. The applicant provided justification for all applicable criteria (Attachment D).

(A) The zone change is justified based on one or more of the following:

- (i) A mistake in the application of a land use designation to the property.***

Finding: In the Zone Change application, the applicant does not assert that a mistake has been made in the application of the comprehensive plan designation or zone of the subject property.

- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern.***

Finding: The applicant's written statement contends that relatively recent residential developments to the east and west represent a change in the economic, demographic, and physical character of the vicinity warranting a zone change. While staff concurs that the CO zoning proposed by the applicant would be more compatible with these surrounding developments, the underlying land use designations and subdivision approvals on these adjacent properties were largely enacted between 1991 and 2006.

- (iii) A demonstration that the proposed zone change is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.***

Finding: The request satisfies (iii). While possible with the existing site configuration, development of the northern portion of the subject property for retail purposes may be constrained by the relatively narrow width of the property and lack of visibility from River Road S. Future retail or service use of the northern portion of the property is unlikely. The subject property is surrounded by existing residential developments to the east and west, and a railroad right-of-way along the north. A CO zoning designation is better suited for the subject property than the current CR zoning designation because of the abutting land uses and the surrounding physical features of the property. The permitted land uses in the CO zone more closely resemble the uses found in the surrounding area, especially the existing offices on the south portion of the subject property and the one and two-family residential development on abutting properties to the east and west. Based on this, the proposed Commercial Office zoning is more appropriate for the site than the current Retail Commercial zoning. The proposal meets this criterion.

(B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

Finding: The proposal is not a City-initiated zone change. Therefore, this criterion does not apply.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

The Comprehensive Plan Map designates the portion of the property subject to the proposed zone change as "Commercial." Goals and policies for Commercial Development are contained in section IV.G of the Salem Area Comprehensive Plan (SACP). The applicable goal and related policies are addressed below.

Goal G. To maintain and promote the Salem urban area as a commercial center for the Marion-Polk metropolitan area.

Finding: The proposed CO (Commercial Office) zone is consistent with the Commercial Comprehensive Plan Map designation on that portion of the subject property. The proposed zone would allow continued use of the office buildings on the southern portion of the subject property. The portion of the property most suited for commercial purposes is already developed with office buildings providing commercial space within a convenient location within the Salem urban area. The existing offices and proposed residential development on the northern portion of the subject property are not community or neighborhood shopping or service facilities, as described in Commercial Development policies within the SACP. The proposed zone change is consistent with the applicable Commercial Development policies identified below.

Policy 6. Commercial office uses shall have convenient access to collector and arterial streets.

Finding: The existing office building has direct access to the transportation network via an existing driveway connection to River Road S, a minor arterial. Future development on the subject property will be able to access River Road via an extension of the driveway. Therefore, the proposal conforms to this policy.

Policy 8. Buffer strips from residential uses shall be provided for all commercial development.

Finding: Commercial uses on the subject property would be subject to zone-to-zone setback requirements under SRC Chapter 521, Table 521-4. Buildings, accessory structures, and vehicle use areas in commercial use would be subject to a 15-foot setback from abutting residential property lines, with Type C landscaping and screening. In addition, future residential uses on the northern end of the property would be required to meet setbacks similar to those found in the RA (Residential Agriculture) and RS (Single Family Residential) zones. Therefore, the proposal conforms to this policy.

(D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.

Finding: The City's adopted Comprehensive Plan implements the Statewide Planning Goals and applicable administrative rules, and is acknowledged to be in compliance with the Statewide Planning Goals. The CO (Commercial Office) zoning designation proposed by the applicant is consistent with the existing "Commercial" Comprehensive Plan Map designation, its intent and its applicable provisions. Therefore, the proposal satisfies this criterion.

(E) If the zone change requires a comprehensive plan change from an industrial use designation to a non-industrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.

Finding: As discussed previously, the CO zone is one of the zones that implement the Commercial designation, and a concurrent comprehensive plan amendment is not required for the proposed zone change. Therefore, this criterion does not apply.

(F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

Finding: The subject property has frontage on River Road S, designated as a Minor Arterial in the Transportation System Plan. Primary access to the existing offices and the currently undeveloped northern portion of the subject property is provided by an existing driveway to River Road S. The applicant proposes to continue this driveway northward as a flag lot accessway to serve proposed parcels 2 and 3.

Both the existing CR (Retail Commercial) and the proposed CO (Commercial Office) zone allow a range of uses in terms of traffic volumes generated. The proposed CO zone allows a far narrower range of potentially high-traffic retail sales and service uses than those already allowed in the existing CR zone. The change in the zoning for the subject property will not cause a significant effect on the existing transportation system, or result in a level of services decreasing to an unacceptable level.

Therefore, the proposal satisfies this criterion.

(G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

Finding: Water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the property as shown on the applicant's preliminary partition plan. Proposed Parcels 1 and 2 are developed and served by existing water and

sewer services. City records show water and sewer services were constructed in 2001 for future uses on proposed Parcel 3. These lines are adequately sized to handle commercial or residential development on this portion of the subject property.¹ The subject property has access to the public street network via an existing driveway onto River Road S, designated as a Minor Arterial in the Salem Transportation System Plan (TSP). The proposal meets this criterion.

(2) The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.

Finding: The applicant has provided a written justification for the zone change request and indicates that the purpose of the request is to change the zoning to allow development of single family residences on the north end of the subject property, while maintaining the existing offices on the southern portion of the property as an allowed use.

In order to measure the impact of this request, staff considered the size of the land to be rezoned, the neighborhood compatibility of the uses allowed under the proposed CO zoning as compared to the current CR zoning, and the character of the existing land uses immediately surrounding the property. The existing CR zoning allows a wide range of retail and service uses, but does not permit single family residential development. The proposed CO zone allows a much narrower range of retail and service land uses. The CO zone also allows single family residential development as a permitted use, subject to development standards consistent with those found on abutting residential properties.

Based on these considerations, staff finds that the level of information provided in applicant's statement addressing the factors listed under SRC Chapter 265.005(e) corresponds to the anticipated impact of the zone change proposal.

Conclusion:

The proposal is consistent with and in compliance with the applicable goals and policies of the Salem Area Comprehensive Plan and the Statewide Planning Goals and satisfies all applicable criteria.

Based upon the facts and findings presented in the staff report and by the applicant, staff concludes that the proposed zone change from CR (Retail Commercial) to CO (Commercial Office) satisfies the criteria for approval and that the applicant has met the required burden of proof in demonstrating compliance with those criteria. The applicant met the burden of proof in satisfying the Statewide Planning Goals through compliance with the Salem Area Comprehensive Plan, and the evaluation of factors for zone change defined under SRC 265.005(e), thereby meeting the approval criteria for a zone change.

8. Criteria for Granting a Partitioning

Salem Revised Code (SRC) 205.005(d) sets forth the criteria that must be met before

¹ Sewer connection fees shall be paid for Parcel 3 prior to building permit approval per SRC Chapter 21. A water main extension and domestic services for Parcels 1, 2, and 3 were constructed by the land owner, River Building, LLC; therefore water connection fees are not due per SRC 21.340(a).

approval can be granted to a tentative partition plan. The following subsections are organized with approval criteria shown in **bold**, followed by findings of fact upon which the Planning Administrator bases her decision. Lack of compliance with the following land division standards is grounds for denial of the tentative plan or for the issuance of certain conditions necessary to more fully satisfy such standards. The applicant's proposed partition, for the purpose of dividing the subject property as described above, was reviewed for compliance with the following standards and, as detailed in the facts and findings of this staff report, the following approval criteria have been sufficiently addressed to warrant approval of the tentative partition plan, subject to conditions.

Compliance with conditions of approval to satisfy the subdivision ordinance is checked prior to City staff signing the final plat, unless otherwise noted.

SRC 205.005(d)(1): The tentative partition complies with all of the standards of this Chapter and with all applicable provisions of the UDC, including, but not limited to the following:

(A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines.

(B) City infrastructure standards.

(C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

Finding: The Salem Revised Code (SRC), which includes the Unified Development Code (UDC), implements the Salem Area Comprehensive Plan land use goals and governs the development of property within the City limits. The partitioning process reviews development for compliance with City standards and requirements contained in the UDC, Salem Transportation System Plan, and the Water, Sewer, and Storm Drain System Master Plans. Compliance with conditions of tentative partition plat approval is checked prior to City staff signing the final partition plat.

As conditioned, the proposed partition meets all applicable provisions of the Salem Revised Code as detailed below:

SRC Chapter 205 (Land Division and Reconfiguration): The intent of the Land Division and Reconfiguration code is to provide for orderly development through the application of appropriate standards and regulations. The applicant met all application submittal requirements necessary for adequate review of the proposed partitioning. As proposed, and with conditions of approval, the proposed partition conforms to all applicable SRC Chapter 205 requirements.

The tentative partition plan proposes to divide the subject property into three parcels (Attachment B). Proposed Parcel 1, which is approximately 45,385 square feet in size, is located on the south side of the property abutting River Road S. Proposed Parcel 2, which is approximately 17,214 square feet in size, is located in the middle of the subject

property. Proposed Parcel 3, which is approximately 19,729 square feet in size, is located on the northern side of the subject property.

Parcel Configuration: SRC 521.010(a) specifies minimum lot size, dimensional and frontage requirements in the CO zone, based on use proposed. All of the proposed parcels within the partition satisfy such standards.

Each of the parcels will be suitable for the general purpose for which they are intended to be used, such as future development of one single-family dwelling each or development of other SRC Chapter 510 (RA Zone) and SRC Chapter 521 (CO Zone) "permitted," "special" or "conditional" uses. The lots are of a size and design that will not be detrimental to the health, safety, or sanitary needs of the existing and/or future residents.

Adequate Utilities and Streets: The Salem Public Works Department reviewed the proposal and determined that the water, sewer, and storm infrastructure is available and appears to be adequate to serve future development. Conditions of approval established as part of this decision ensure that such utilities are provided in conformance with the City's public facility plans.

SRC Chapter 64 (Comprehensive Planning): The partition, as proposed and with conditions of approval, conforms to the Salem Area Wastewater Management Master Plan, the Stormwater Master Plan, the Water System Master Plan, and the Salem Transportation System Plan.

SRC Chapter 65 (Excavation and Fills): SRC Chapter 65 (Excavations and Fills) establishes standards to ensure that any excavation or fill adjacent to public right-of-way or within a public easement, designated waterway, or floodplain overlay zone creates no imminent danger to public safety or public facilities and does not create a public nuisance. SRC Chapter 65 also prohibits excavation or fill that causes surface drainage to flow over adjacent public or private property in a volume or location materially different from that which existed before the grading occurred. There is no evidence that the subject property cannot be developed consistent with the provisions of SRC Chapter 65.

Pursuant to SRC 65.040, and prior to any ground disturbing activity, permits shall be required and obtained from the Public Works Director for any excavation work adjoining a public right-of-way, or adjoining or within an easement (or future right-of-way or easement), or within or adjoining a designated waterway, or within a floodplain overlay zone.

SRC Chapter 200 (Urban Growth Management): The Urban Growth Management Program, detailed in SRC Chapter 200, requires that an Urban Growth Area (UGA) Development Permit must be obtained prior to development of property outside the Salem Urban Service Area. The majority of the subject property is within the Urban Service Area. Therefore, a UGA permit is not required and the proposal conforms to the requirements of SRC Chapter 200.

SRC Chapter 205 (Land Division and Reconfiguration): The intent of the Land Division and Reconfiguration code is to provide for orderly development through the application of

appropriate standards and regulations. The applicant met all application submittal requirements necessary for adequate review of the proposed partition. As proposed, and with conditions of approval, the proposed partition conforms to all applicable SRC Chapter 205 requirements.

SRC Chapter 808 (Preservation of Trees and Vegetation): The City's tree preservation ordinance protects Heritage Trees, Significant Trees (including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. In addition, SRC 808.035(a) requires a Tree Conservation Plan for a development proposal involving the creation of lots or parcels to be used for the construction of single-family dwelling units, where trees are proposed for removal. SRC 808.035(d)(4) requires in relevant part that an application for a Tree Conservation Plan shall be granted if not less than 25 percent of all trees located on the property are designated for preservation. There are no trees on the portion of the property where new lots are proposed for single family residential development. Therefore, no Tree Conservation Plan is required for the subject request. The proposed partition conforms to the requirements of SRC Chapter 808.

SRC Chapter 809 (Wetlands): The Salem-Keizer Local Wetland Inventory (LWI) does not identify any wetlands on the subject property.

SRC Chapter 810 (Landslide Hazards): The City's landslide hazard ordinance (SRC Chapter 810) establishes standards and requirements for the development of land within areas of identified landslide hazard susceptibility. According to the City's adopted landslide hazard susceptibility maps, there are areas of mapped landslide hazard susceptibility points located on the southern portion of the property. Based on the point value associated with the land (2-4 points), a geologic assessment may be required if a regulated development activity is proposed in the mapped landslide hazard area.

SRC Chapter 521 (Commercial Office zone): The subject property is zoned Single Family Residential (RS). SRC Chapter 521, CO Zone, specifies minimum lot size and dimension requirements, building setbacks, and lot coverage standards. The proposed parcels are of such size and configuration to provide reasonable development consistent with SRC Chapter 521 provisions, as detailed in the findings under Section 3 of this staff report.

SRC Chapter 806 (Off-Street Parking, Loading, and Driveways): SRC 806.015(a) requires all Single Family and Two Family dwellings outside of the Central Salem Development Program (CSDP) Area to maintain a minimum of two off-street parking spaces per dwelling. The subject property is located outside of the CSDP, and the proposed partition would create two additional parcels with potential use for new residential development (proposed Parcels 2 and 3), with existing office buildings remaining on proposed Parcel 1. Minimum off-street parking would be required for proposed Parcels 2 and 3 at the time of development. The existing offices would remain on proposed Parcel 1, and are already served with existing parking areas providing off-street parking in excess of 1 space per 350 square feet, as required under SRC Chapter 806, Table 806-1.

SRC 205.005(d)(2): The tentative partition plan does not impede the future use or

development of the property or adjacent land.

Finding: The proposed partition would divide a 1.89 acre property into three proposed parcels with no remainder. The proposed partition would not impede the future use or development of any portion of the property. Properties adjoining the subject property are developed and have access to public streets. The proposed parcels exceed minimum lot size and dimension standards and are of sufficient size to allow development consistent with applicable zoning standards.

The proposed configuration of parcels allows for the future development of the site consistent with applicable zoning standards. The proposed extension of the existing flag lot accessway is adequate to provide safe, orderly, and efficient circulation of traffic into and out of the proposed partition. The proposal meets this criterion.

SRC 205.005(d)(3): Development within the tentative partition plan can be adequately served by City infrastructure.

Finding: As described in the November 9, 2015 comments from the Public Works Department (Attachment E), and findings in Section 7 above on applicable criteria for the proposed zone change, the property is capable of being served by public facilities. Public Works Department staff reviewed the proposal and determined that water, sewer, and storm infrastructure is available along the perimeter of the site and appears to be adequate for future development.

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in Administrative Rule 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of existing and proposed stormwater facilities for Parcel 3. Parcels 1 and 2 are developed and have existing stormwater systems.

In order to ensure that the partition can accommodate required stormwater facilities, the following condition of plat approval shall apply:

Condition 1: Provide a stormwater utility plan showing existing stormwater systems for Parcels 1 and 2 and design a stormwater system to serve proposed Parcel 3 in compliance with Public Works Development Standards. Provide easements on the final plat as warranted.

All public and private City infrastructure to be located in the public right-of-way shall be constructed or secured per SRC 803.035(c)(6)(B) prior to final plat approval. In order to ensure that necessary easements are provided for access and public utilities, the following condition of plat approval shall apply:

Condition 2: Show all necessary access and utility easements on the plat to

the satisfaction of the Public Works Director.

Condition 3: Provide a 10-foot-wide public utility easement along the entire right-of-way frontage of River Road S.

SRC 205.005(d)(4): The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan.

Finding: The subject property abuts River Road S. The Salem Transportation System Plan (TSP) designates River Road S as a minor arterial. The standard for a minor arterial street is a 46-foot-wide improvement within a 72-foot-wide right-of-way. Comments from the Public Works Department indicate that the abutting portion of River Road S has an approximate 36-foot-wide improvement within a 73-foot-wide right-of-way. River Road S is fully improved to minor arterial standards; therefore no boundary street improvements are required. As a proposed partition of a recently developed property, the transportation network in the area is already established. Connections to the existing transportation system are provided by the existing streets and proposed accessway extension to serve the new parcels.

SRC 205.005(d)(5): The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

Finding: The existing configuration of River Road S is adequate to provide safe, orderly, and efficient circulation of traffic to the proposed partition. This connection provides access to the existing street network and provides for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition. The proposal meets this criterion.

SRC 200.005(d)(6): The tentative partition plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

Finding: The proposed partition has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. Croisan Creek flows through the subject property. An existing floodway and floodplain is located on the subject property designated on the Federal Emergency Management Agency floodplain maps. The 100 year base flood elevation is approximately 148.4 feet on the subject property. The impacts to City infrastructure from the subject partition application do not warrant additional easements to be dedicated at this time. The floodway boundary and existing Creek Setback and Maintenance Easement (Reel 1751, Page 730) shall be shown on the final plat as specified by the City Surveyor. In order to ensure that the boundary of the floodway is clearly indicated for consideration of future users, staff recommends that the Hearings Officer adopt the following condition of approval:

Condition 4: Designate the floodway boundary on the final plat.

Subject to recommended conditions of approval, the proposal meets this criterion.

SRC 200.005(d)(7): The layout, size, and dimensions of the parcels within the tentative partition plan take into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will occur from the reasonable development of the parcels.

Finding: The proposed partition has been reviewed to ensure that adequate measures have been planned to alleviate natural or fabricated hazards and limitations to development, including topography and vegetation of the site. Both of the proposed parcels are well in excess of minimum lot sizes and dimensional standards, allowing flexibility in the future siting of new dwelling units. The applicant has indicated that the existing office buildings will remain on Parcel 1, and proposed Parcels 2 and 3 could be developed within minimal disruption to the existing topography and vegetation. The proposal meets this criterion.

SRC 200.005(d)(8): When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:

(A) The property is zoned residential;

(B) The property has received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system; and

(C) The proposed parcels are at least 5 acres in size and, except for flag lots, have no dimensions less than 100 feet.

Finding: The site is served by available sewer and water. This criterion is not applicable.

RECOMMENDATION

Staff recommends that the Hearings Officer adopt the facts and findings of the staff report and APPROVE, by resolution, the following actions for Zone Change/Partition 15-04 for property approximately 1.89 acres in size, designated Commercial and Developing Residential on the Plan Map, zoned CR (Retail Commercial) and RA (Residential Agriculture), and located at 3155-3175 River Road S (Marion County Assessor map and tax lot number: 083W05AA00100).

- A. That the zone change request for the subject portion of the property from CR (Retail Commercial) to CO (Commercial Office) be GRANTED.
- B. That the tentative partition plan to divide a 1.89 acre property into three parcels, with proposed Parcel 1 consisting of approximately 45,385 square feet, proposed Parcel 2 consisting of 17,214 square feet, and proposed Parcel 3 consisting of 19,729 square feet be GRANTED.

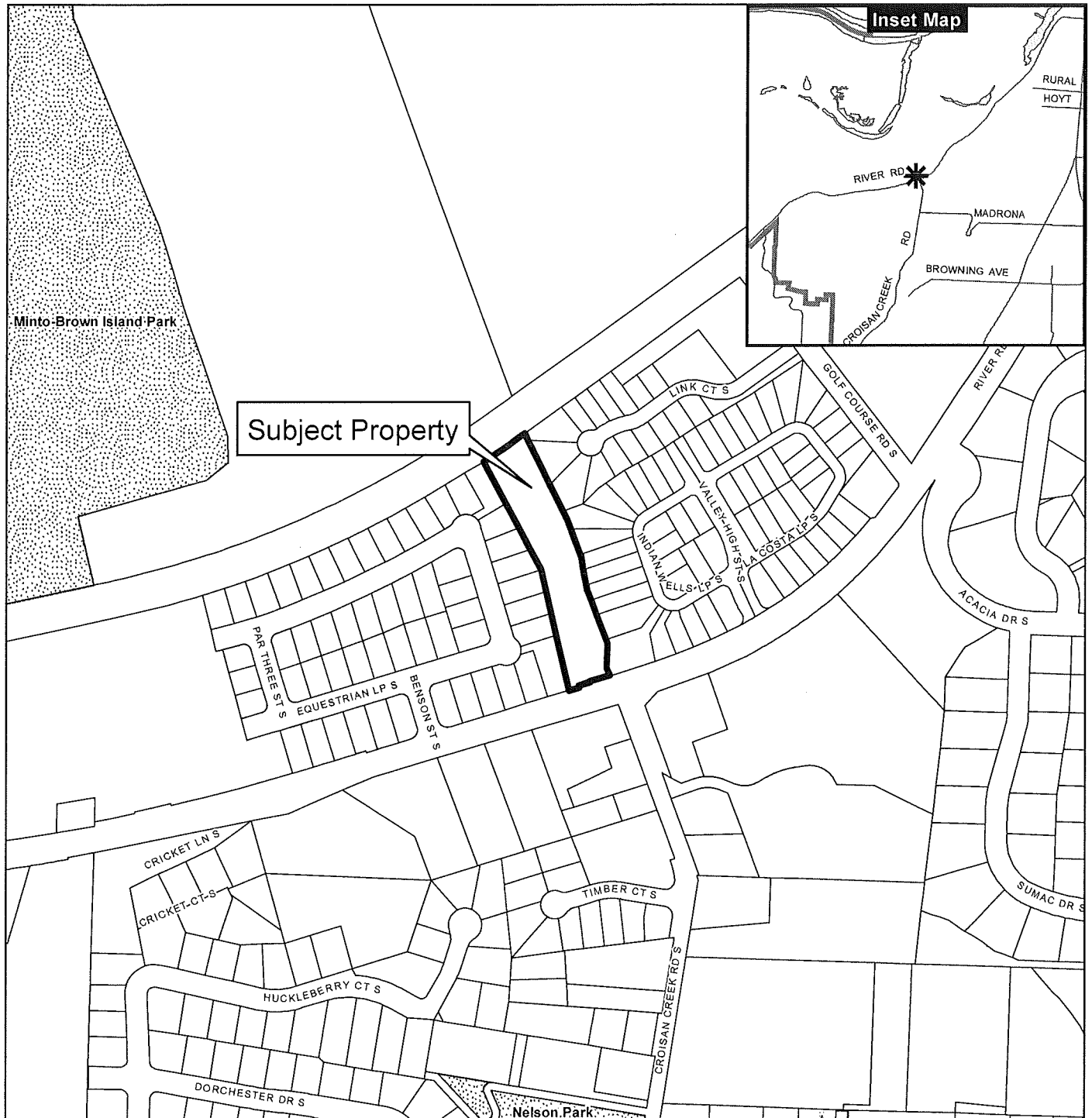
- Attachments:
- A. Public Hearing Notice & Vicinity Map
 - B. Tentative Partition Plan
 - C. Vicinity Zoning Map
 - D. Applicant's Statement Addressing Approval Criteria
 - E. Public Works Department Comments

Prepared by Christopher Green, Planner II *CSG*

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Vicinity Map

3155-3175 River Road S



Legend

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

Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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0 100 200 400 Feet



Revised - Tentative Partition Plan

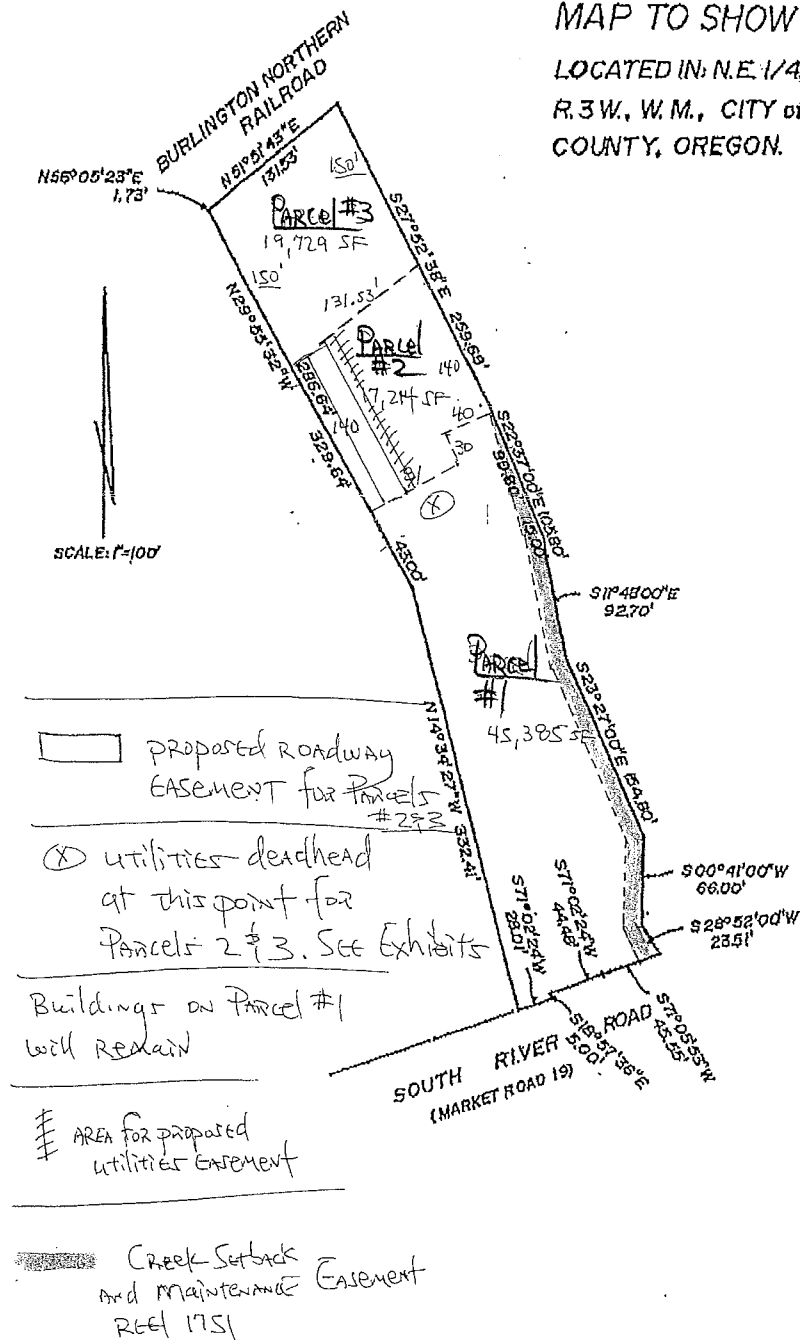
Owner: River Building LLC, 3155 River Rd. So. Suite 150 Salem OR 97302

Surveyor original plan: Matt Dunkel, 3765 Riverside Dr. McMinnville OR 97128

Updated October 26, 2015 for this Application

MAP TO SHOW DESCRIPTION

LOCATED IN: N.E. 1/4, SEC. 5, T. 8 S.,
R. 3 W., W. M., CITY OF SALEM, MARION
COUNTY, OREGON.



Area of Proposed Zone Change



Legend

- | | | |
|----|---------------------------|---------|
| RS | Base Zoning | Taxlots |
| | Urban Growth Boundary | Parks |
| | Outside Salem City Limits | Schools |

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CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

Land Use Application for Zone Change and Partition for a Home

By River Building, LLC at 3155-3175 River Road S, Salem, OR

This Addendum and the attached *Exhibits* are part of this Application for a zone change and partition for a lot created by the partition to allow construction of a home. This Application and supporting materials for a zone change for a single parcel from Commercial Retail (CR) and Agriculture/Residential (RA) to Commercial Office (CO) is well justified, with a simple partition to create two new parcels within the subject 1.89-acre parcel.

A Pre-Application Conference Waiver request was filed with this Application based on two meetings with City staff about this Application before it was filed and this is a simple Application. A copy is attached as *Exhibit 1*.

Basic Facts and Background

This Application concerns a 1.89 acre parcel on South River Road which although a single parcel, is primarily zoned CR with some AR as shown in *Exhibit 9*. This results from the County zoning of the portion zoned AR and the City zoning of the CR portion before the AR portion was incorporated into the City.

Although the parcel has two single story smaller office buildings, the parcel has residential subdivisions on both long borders, the railroad track and Salem Golf Club on the back border, and River Road South on the front. See *Exhibits 6 and 7*. The applicant, Attorney Terrence Kay, is an owner of the Company which owns the land, River Building, LLC. He and his wife want to partition the lot in the rear identified as Parcel #3 in Exhibit 8 to build a home, which is allowed in rezoning Parcel #3 from CR/AR to CO. All necessary utilities are stubbed off for connection to this home from the prior development of the office building in the front of the site. As long as the expense and effort to file this Partition was being undertaken, Parcel #2 is being created to separate that vacant land from the main Parcel #1 with the existing buildings and from the rear Parcel #3.

No objections from adjoining property owners or the neighborhood association are anticipated since the purpose of this Application allows another home to be constructed on that portion to be partitioned off.

1. Partition Application

The following documents and information are provided as described in the City Application Packet and SRC 205.005(d).

1. The members of the property owner, River Building, LLC are Terrence Kay and Robert Decker. The Application fee has been paid with the submission of this Land Use Application.

2. The recorded deed for the existing unit of land is attached as *Exhibit 2*.
3. The trip generation estimate form has been completed and submitted or is being simultaneously submitted to the Department of Public Works Traffic Engineering Section, Room 325. *See copy attached as Exhibit 3.*
4. The following Written Statement is submitted describing this proposal and how it conforms to the approval criteria for a partition under SRC 205.005(d):
 - (1) This partition plan complies with standards with this Chapter and applicable provisions of the UDC has required for this criteria. A formal plat or survey with final measurements and legal descriptions will be submitted. *See Exhibit 8.*
 - (2) This partition plan will not impede the future use or development of the property or adjacent land. The adjacent land is already developed with housing on two sides, the railroad on one side and the remaining portion on the other side is already available for development. *See Exhibits 6 and 7.*
 - (3) This partition plan can be adequately served by City infrastructure because the underground utilities are already stubbed out within the land for Parcels #2 and #3 and available is shown in *Exhibit 4*. These were specifically stubbed out to that location for future use of this land when the land owner, River Building LLC, built the office building in the front of this 1.89 site along River Road.
 - (4) This property has existing access to South River Road to conform with the Salem Transportation System Plan. The street system adjacent to these lands is designed to provide proper access.
 - (5) South River Road is already designed to provide safe, orderly and efficient access for this property.
 - (6) This partition plan accounts for the topography and vegetation on the site and there is no need for a variance.
 - (7) The parcels within this partition plan provide the least disruption of the site, topography and vegetation with reasonable development of the parcels.
 - (8) The parcels are closer than 300ft from the existing sewer main and the property will connect to city water and sewer. *See Exhibit 4.*

5. A title report for the property is attached as *Exhibit 5*.
6. No future development plan should be necessary for this property. Although if necessary *Exhibits 6, 8-11* show the location of the lots or parcels, parcel lines and other details of the layout. There would be no violation of development standards of the UDC and no need for any extension or connection of adjacent streets as the property already has a driveway access which goes into South River Road. The utilities infrastructure is already in the existing property subbed out to be available for the home site.
7. The proposed partition plan is attached as *Exhibit 8* may need further refinement to show exact boundary line locations and will be supplied as requested, and of course, confirmed by the City as part of approval. Parcel #2 is intended to allow for the set back from the storage building, *see Exhibits 6 and 8*. The land owner is River Building LLC. The surveyor is Matt Dunkel for the original plan, which is updated with the partitioning shown for Parcels # 2 & 3. . The two parcels created by the partition lines for a total of 3 parcels from the prior single parcel are shown in *Exhibit 8*.
8. The current Owner of the land will own the 3 parcels although Parcel #3 for a home site will be conveyed to Terrence and Teri Kay. The current Owner is:

River Building, LLC
3155 River Road S, Suite 150
Salem OR 97302

2. Zone Change Application Information.

The following documents and information are provided as described in the City's application packet and SRC 265.005(e) to rezone Parcel #3 from AR/CR to CO.

1. The recorded deed, *see Exhibit 2*.
2. A pre-application conference waiver is justified, that Waiver form has been filed with this Application. *A copy is Exhibit 1*. The Applicant's representative, Attorney Terrence Kay, has met with City staff on 2 occasions regarding this Application, which is straight forward and for which there is good cause to waive the pre-application conference requirement under SRC 300.310(b).
3. Two copies of an existing conditions plan information are filed with this Application, a copy is attached as *Exhibit 11*.

4. The following written statement is submitted below describing the proposal and how it conforms to the approval criteria for this quasi-judicial zone change under SRC 265.005(e):

- (A) The downzoning requested CR/AR to CO for Parcel #3 only in *Exhibit 6* is justified because part of the land is already zoned RA, and there has been a change in the economic demographic and physical character of the vicinity which makes this zone change compatible with the local development pattern. There are homes bordering the parcel on two sides, see *Exhibit 5*. This satisfies criteria (a) (ii). This proposal also satisfies the alternative criteria (a) (iii) because the proposed zone for that parcel is equally or better suited for that property in the current zone and a more logical use with the surrounding homes.
- (B) This criteria is not applicable since this change is not City-initiated.
- (C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.
- (D) The zone change complies with the applicable State Wide Planning Goals and applicable administrative rules of the DLCD.
- (E) No comprehensive plan change is needed.
- (F) This zone change does not significantly affect a transportation facility, and a home would also be a less traffic intense use than a commercial building.
- (G) The property is readily able to be served with public facilities and services to support the proposed zone, see *Exhibits 4 and 6*.

NOV 09 2015



COMMUNITY DEVELOPMENT

MEMO

TO: Chris Green, Planner II
Community Development Department

FROM: Glenn Davis, PE, CFM, Chief Development Engineer
Public Works Department

DATE: November 9, 2015

SUBJECT: PUBLIC WORKS RECOMMENDATIONS
ZC-PARTITION PLAT NO. 15-04 (15-118610-LD)
3155 RIVER ROAD S
THREE-PARCEL PARTITION

PROPOSAL

A consolidated application containing the following requests:

1. To change the zoning of that portion of the subject property zoned CR (Retail Commercial) to CO (Commercial Office); and
2. A partition to divide approximately 1.89 acres into three parcels, with proposed Parcel 1 consisting of approximately 45,385 square feet, proposed Parcel 2 consisting of approximately 17,214 square feet, and proposed Parcel 3 consisting of approximately 19,729 square feet.

The subject property is approximately 1.89 acres in size, currently zoned CR (Retail Commercial) and RA (Residential Agriculture), and located at 3155 River Road S (Marion County Assessor Map and Tax Lot Number: 083W05AA00100).

RECOMMENDED CONDITIONS OF PLAT APPROVAL

1. Show all necessary access and utility easements on the plat to the satisfaction of the Public Works Director.
2. Designate the floodway boundary on the final plat.
3. Provide a stormwater utility plan showing existing stormwater systems for Parcels 1 and 2 and design a stormwater system to serve proposed Parcel 3 in compliance with PWDS. Provide easements on the final plat as warranted.
4. Provide a 10-foot-wide public utility easement (PUE) along the entire right-of-way frontage of River Road S.

FACTS

River Road S

- a. Existing Conditions—This street has an approximate 36-foot improvement within a 73-foot-wide right-of-way abutting the subject property.
- b. Standard—This street is designated as a minor arterial street in the Salem TSP. The standard for this street classification is a 46-foot-wide improvement within a 72-foot-wide right-of-way.

Storm Drainage

Existing Conditions—A public ditch is located in River Road S.

Water

Existing Conditions

- a. The subject property is located in the G-0 water service level.
- b. There is a 20-inch public water line in River Road S.

Sanitary Sewer

Existing Sewer—An 18-inch sewer line is located in River Road S.

CRITERIA AND FINDINGS

SRC 205.005(d) indicates the criteria that must be found to exist before an affirmative decision may be made. The applicable criteria and the corresponding findings are as follows:

SRC 205.005(d)(1)—The tentative partition plan complies with the standards of this Chapter and with all applicable provisions of the Unified Development Code, including, but not limited to the following:

- a. Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;
- b. City infrastructure standards; and
- c. Any special development standards, including, but not limited to floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

Findings—Croisan Creek flows through the subject property. An existing floodway and floodplain is located on the subject property designated on the Federal Emergency Management Agency (FEMA) floodplain maps. The 100-year base flood elevation is approximately 148.4 on the subject property. The impacts to City infrastructure from the subject partition application do not warrant additional easements to be dedicated at this time. The floodway boundary and existing Creek Setback and Maintenance Easement (Reel 1751, Page 730) shall be shown on the final plat as specified by the City Surveyor.

The applicant shall provide the required field survey and partition plat per Statute and Code requirements outlined in the *Oregon Revised Statutes* (ORS) and SRC. If said documents do not comply with the requirements outlined in ORS and SRC, and as per SRC Chapter 205, the approval of the partition plat by the City Surveyor may be delayed or denied based on the non-compliant violation. It is recommended the applicant request a pre-plat review meeting between the City Surveyor and the applicant's project surveyor to ensure compliance with ORS 672.005(2)(g)&(h), 672.007(2)(b), 672.045(2), and 672.060(4); *Oregon Administrative Rules* 850-020-0015(4)&(10), 820-020-0020(2), and 820-020-0045(5).

SRC 205.005(d)(3)—Development within the tentative partition plan can be adequately served by City infrastructure.

Findings—Water and sewer infrastructure is available along the perimeter of the site and appears to be adequate to serve the property as shown on the applicant's preliminary partition plan. Proposed Parcels 1 and 2 are developed and served by existing water and sewer services. City records show water and sewer services were constructed in 2001 for future uses on proposed Parcel 3. As specified in the conditions of approval, sewer connection fees shall be paid for Parcel 3 prior to final plat approval per SRC Chapter 21. A water main extension and domestic services for Parcels 1, 2, and 3 were constructed by the land owner, River Building, LLC; therefore water connection fees are not due per SRC 21.340(a).

The proposed development is subject to SRC Chapter 71 and the revised PWDS as adopted in *Administrative Rule* 109, Division 004. To demonstrate the proposed parcels can meet the PWDS, the applicant shall submit a tentative stormwater design prior to final plat approval. For a tentative stormwater design, the applicant shall submit infiltration test results, the Simplified Method Form or Engineering Method Report as applicable, and a preliminary site plan showing the building envelope and tentative location of existing and proposed stormwater facilities for Parcel 3. Parcels 1 and 2 are developed and have existing stormwater systems.

Access and utility easements for existing City infrastructure needed to serve the proposed parcels shall be shown on the final plat.

SRC 205.005(d)(4) and SRC 205.005(d)(5)—The street system in and adjacent to the tentative partition plan conforms to the *Salem Transportation System Plan*. The street system in and adjacent to the tentative partition plan is designed so as

to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.

Finding—The existing configuration of River Road S is adequate to provide safe, orderly, and efficient circulation of traffic to the proposed partition. River Road S is fully improved to minor arterial standards; therefore no boundary street improvements are required.

Prepared by: Robin Dalke, Administrative Analyst III
cc: File