

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



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503-588-6173*

## ADMINISTRATIVE DECISION FOR CLASS 1 TIME EXTENSION

**CASE NO.:** ZC-PAR15-04 EXT4  
**AMANDA NO.:** 23-114602-PLN  
**DATE OF DECISION:** August 7, 2023  
**LOCATION:** 3155 River Road S  
**APPLICANT:** Terrence Kay for River Building LLC

### REQUEST

A fourth Class 1 Extension to extend the approval for a tentative Partition (Case No. ZCPAR15-04) by two years to December 18, 2025. ZC-PAR15-04 granted approval to divide a 1.89-acre property into three parcels; with Parcel 1 consisting of approximately 45,385 square feet, Parcel 2 consisting of approximately 17,214 square feet, and Parcel 3 consisting of approximately 19,729 square feet.

The property is zoned RA (Residential Agriculture), CR (Retail Commercial) and CO (Commercial Office) and located at 3155 River Road S (Marion County Assessor Map and Tax Lot Number: 083W05AA00100).

### BACKGROUND

On December 2, 2015, the Hearings Officer approved the Tentative Partition request (Case No. ZC-PAR15-05). Zone Change and Tentative Partition Permit Case No. ZC-PAR15-04 was set to expire on December 18, 2017.

On December 6, 2017, the first extension (ZC-PAR15-04EXT1) of the Zone Change and Tentative Partition Permit Case No. ZC-PAR15-04 was approved granting an extension for a period of two years and is set to expire on December 18, 2019.

On December 11, 2019, the second extension (ZC-PAR15-04EXT2) of the Zone Change and Tentative Partition, permit case no ZC-PAR15-04 was approved granting an extension for a period of two years and is set to expire on December 18, 2021.

On October 27, 2021, the third extension (ZC-PAR15-04EXT3) of the Zone Change and Tentative Partition, permit case no ZC-PAR15-04 was approved granting an extension for a period of two years and is set to expire on December 18, 2023.

On July 26, 2023, the applicant submitted a fourth extension request to extend the approval of Tentative Partition Permit Case No. ZC-PAR15-04EXT2 for a period of two years.

## **FINDINGS**

1. Approval for the application was granted on December 2, 2015, with an effective date of December 18, 2015. Pursuant to SRC Chapter 300, all approvals of land use actions shall expire automatically unless development has commenced, or a time extension has been granted.

Pursuant to 205.010(e), Tentative Partition Plan approval will expire if no application for final plat is submitted within the time limits set forth in SRC 300.850. The applicant has not submitted for final plat yet, citing in their findings that "...unforeseen circumstances..." has caused a delay in the engineering work for the project. Table 300-3 provides that the maximum time extension period for a tentative subdivision approval shall be two years. The applicant is requesting a two-year time extension which would extend the expiration date for the Tentative Partition Plan approval to **December 18, 2025**.

2. Under the City's Unified Development Code, extension requests are classified under one of the following two classes:
  - **Class 1 Extension.** A Class 1 Extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application; or
  - **Class 2 Extension.** A Class 2 Extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

Because there have not been changes to the standards and criteria used to approve the original application, this extension request is classified as a Class 1 Extension.

### **3. Class 1 Time Extension Approval Criteria**

SRC 300.850(b)(4)(A) establishes the following approval criterion which must be met in order for a Class 1 Time Extension to be approved:

*A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.*

**Finding:** The application for a Tentative Partition Plan submitted on October 9, 2015 and reviewed for compliance with the approval criteria set forth in SRC Chapter 205. Prior to the

review of the tentative partition plan, the City's zoning and development codes were amended as part of the City's Unified Development Code (UDC) project. The standards and criteria applicable to partitions were included in the standards and criteria updated as part of the UDC.

Since the approval of the tentative subdivision plan, the City's development code was amended as part of the 2021 Unified Development Code (UDC) update project. The 2021 UDC update addressed a variety of issues that had arisen since the last major update of the UDC in 2019 and included policy-related changes in response to concerns from the community, minor housekeeping amendments, and updates to implement changes in State law.

The development code revisions included in the 2021 UDC update were not intended to invalidate existing land use decisions that were approved under prior code standards or preclude such previously approved land use decisions from being extended when there is time still remaining under their original approval. To that end, the adopted ordinance for the 2021 UDC update (*Ordinance Bill No. 13-21*) includes the following requirement for the review of extension requests of land use applications submitted and/or approved prior to the effective date of the ordinance on March 16, 2022:

***"Section 4. Extensions of Approval for Land use Applications Submitted and/or Approved Prior to Ordinance Effective Date. Land use applications submitted and/or approved prior to the effective date of this ordinance that would require a Class 2 extension approval as a result of changes to the standards or criteria included in this ordinance may, notwithstanding the approval criteria for Class 2 extensions included under SRC 300.850(b)(4)(B), receive Class 2 extension approval provided the decision has not expired and there are remaining extensions available.***

Because ZC-PAR15-04 was approved in 2015 prior to the effective date of the ordinance for the 2021 UDC update; the decision has not expired; and because this is the fourth extension request for the partition where, pursuant to SRC 300.850(b) - Table 300-3, up to a maximum total of four two-year extensions are allowed, the requested extension meets the requirements of Section 4 of Ordinance Bill No. 13-21 and may be approved notwithstanding SRC 300.850(b)(4)(B). The applicant is requesting one two-year extension which would extend the expiration date to **December 18, 2025**. This approval criterion is met.

## **DECISION**

Based on the requirements of SRC 300.850(b)(4)(A), the proposed Class 1 Extension complies with the requirements for an affirmative decision.

The Class 1 Extension to extend the approval for Tentative Subdivision Plan Case No. ZC-PAR15-04 is hereby **APPROVED**.

**The extension shall be valid through December 18, 2025.**



Jacob Brown, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

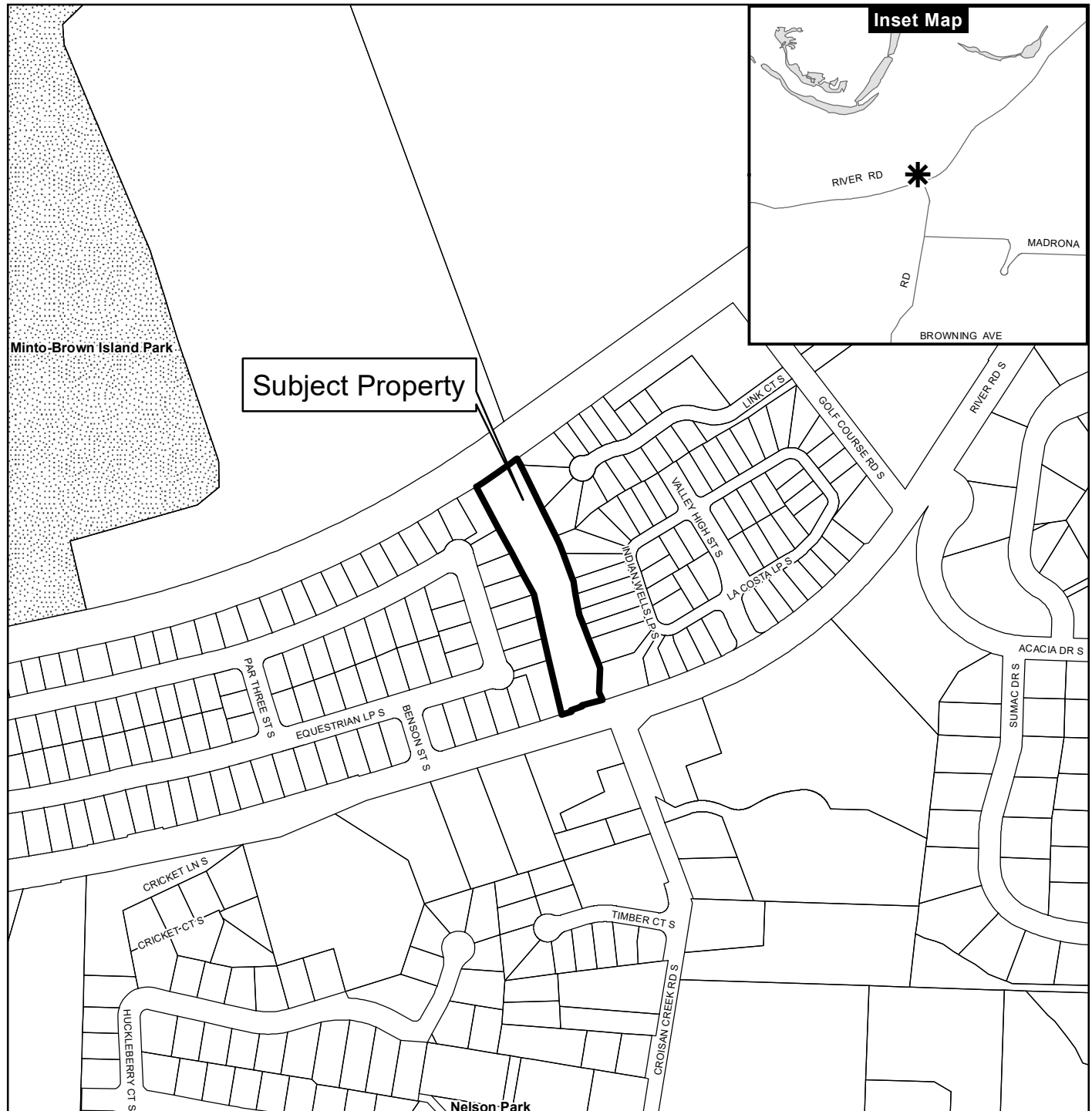
Attachments: A. Vicinity Map  
B. Applicant's Extension Request  
C. Land Use Decision for Partition Case No.

cc: Alan Kessler, GIS

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# Vicinity Map

## 3155 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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**TERRENCE KAY**  
ATTORNEYS AT LAW



3155 River Road S., Suite 150  
Salem, Oregon 97302

Telephone: (503) 588-1944  
Fax: (503) 588-1946

TERRENCE KAY  
MATTHEW CHANDLER

July 13, 2023

Jacob Brown, Planner I  
City of Salem  
555 Liberty Street SE, Room 305  
Salem OR 97301-3503

*via mail only*

Re: Extension request ZC-PAR15-04

Dear Mr. Brown,

The enclosed application is made to obtain the extension prior to the current expiration date of December 18, 2023. Also enclosed is the extension fee of \$190.

Thank you for the City's courtesy in extending this application. Please confirm receipt and that the extension was granted to me via email.

If you need anything else, please let us know immediately by email or contact me directly at 503-931-1768. Please leave a message if I am unable to take the call. Thank you.

Cordially,

Terrence Kay, P.C.  
(E-mail: [Terrence@kaylawfirm.com](mailto:Terrence@kaylawfirm.com))

TK/su  
Enclosures

RECEIVED  
JUL 17 2023  
BY: \_\_\_\_\_

# NOTICE OF DECISION

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SALEM, OREGON 97301  
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## DECISION OF THE HEARINGS OFFICER

QUASI-JUDICIAL ZONE CHANGE / PARTITION CASE NO. ZC-PAR15-04

APPLICATION NO. : 15-118609-ZO & 15-118610-LD

NOTICE OF DECISION DATE: DECEMBER 2, 2015

**SUMMARY:** A consolidated application to change the zoning of property located at 3155 River Road S, and to partition the property into three parcels to allow development of two single family residences north of the existing office building.

**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 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).

**APPLICANT:** Terrance Kay for River Building LLC

**LOCATION:** 3155-3175 River Road S

**CRITERIA:** Salem Revised Code Chapters 265 and 205

**DECISION:** The Hearings Officer **GRANTED** Quasi-Judicial Zone Change / Partition Case No. ZC15-04 subject to the following contions of approval:

**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.

**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.

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

**Condition 5:** Provide at least the minimum number of off-street parking spaces required for existing uses on Parcel 1. Such required off-street parking for uses on Parcel 1 may be located on Parcel 1 or on surrounding properties pursuant to the requirements of SRC Chapter 806, but may not be located within the proposed 25-foot-wide flag lot accessway serving Parcels 2 and 3.

The rights granted by the attached decision must be exercised, or an extension granted, by December 18, 2017, or this approval shall be null and void. A copy of the decision is attached.

Application Deemed Complete: October 27, 2015  
Public Hearing Date: November 18, 2015  
Notice of Decision Mailing Date: December 2, 2015  
Decision Effective Date: December 18, 2015  
State Mandate Date: February 24, 2016

Case Manager: Chris Green, [cgreen@cityofsalem.net](mailto:cgreen@cityofsalem.net), 503.540.2326 

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., December 17, 2015**. Any person who presented evidence or testimony at the hearing may appeal the decision. 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 Chapters 265 and 205.

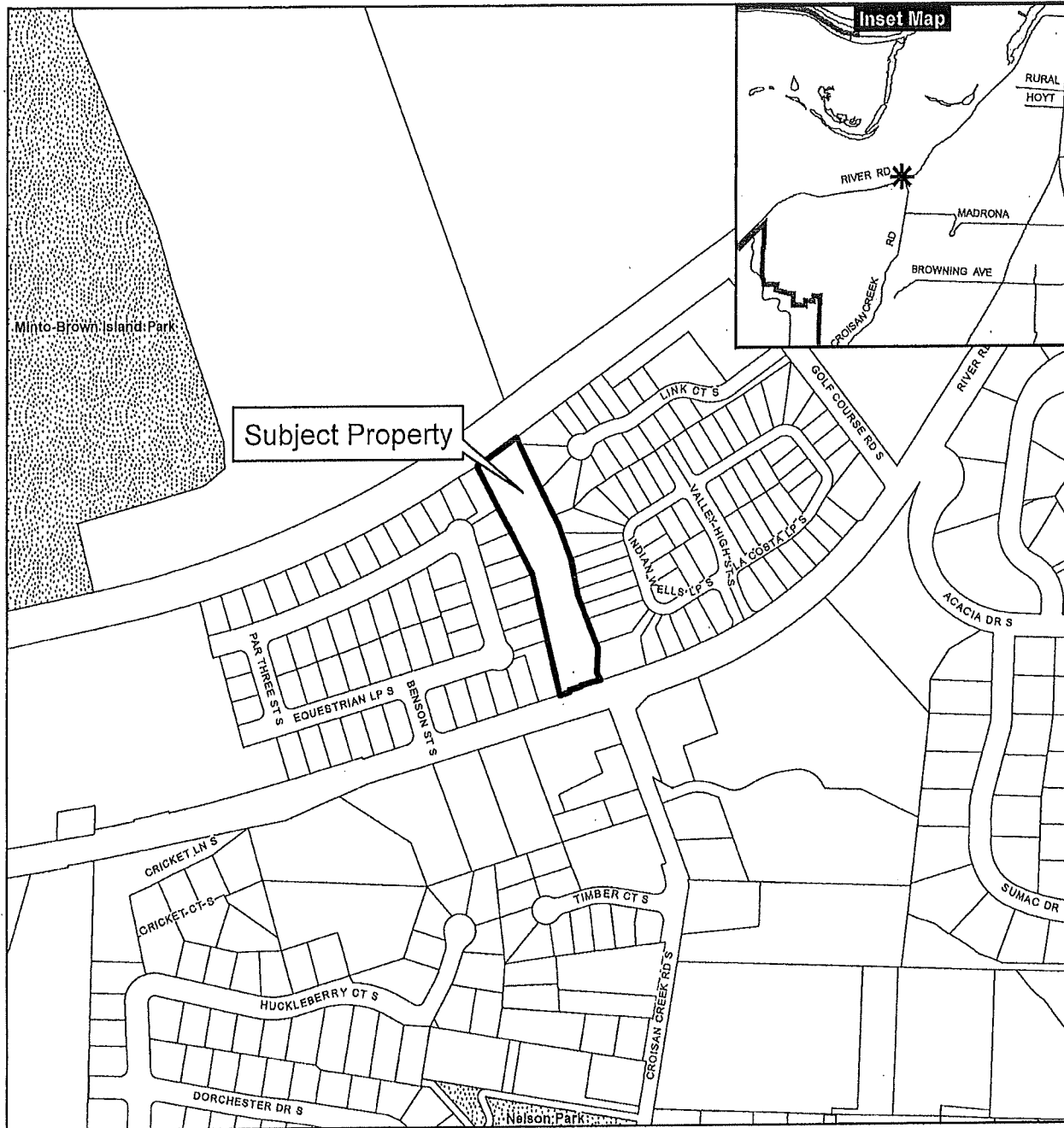
The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The City Council will review the appeal at a public hearing. After the hearing, the City Council may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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



# Vicinity Map 3155-3175 River Road S



## Legend

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

Parks

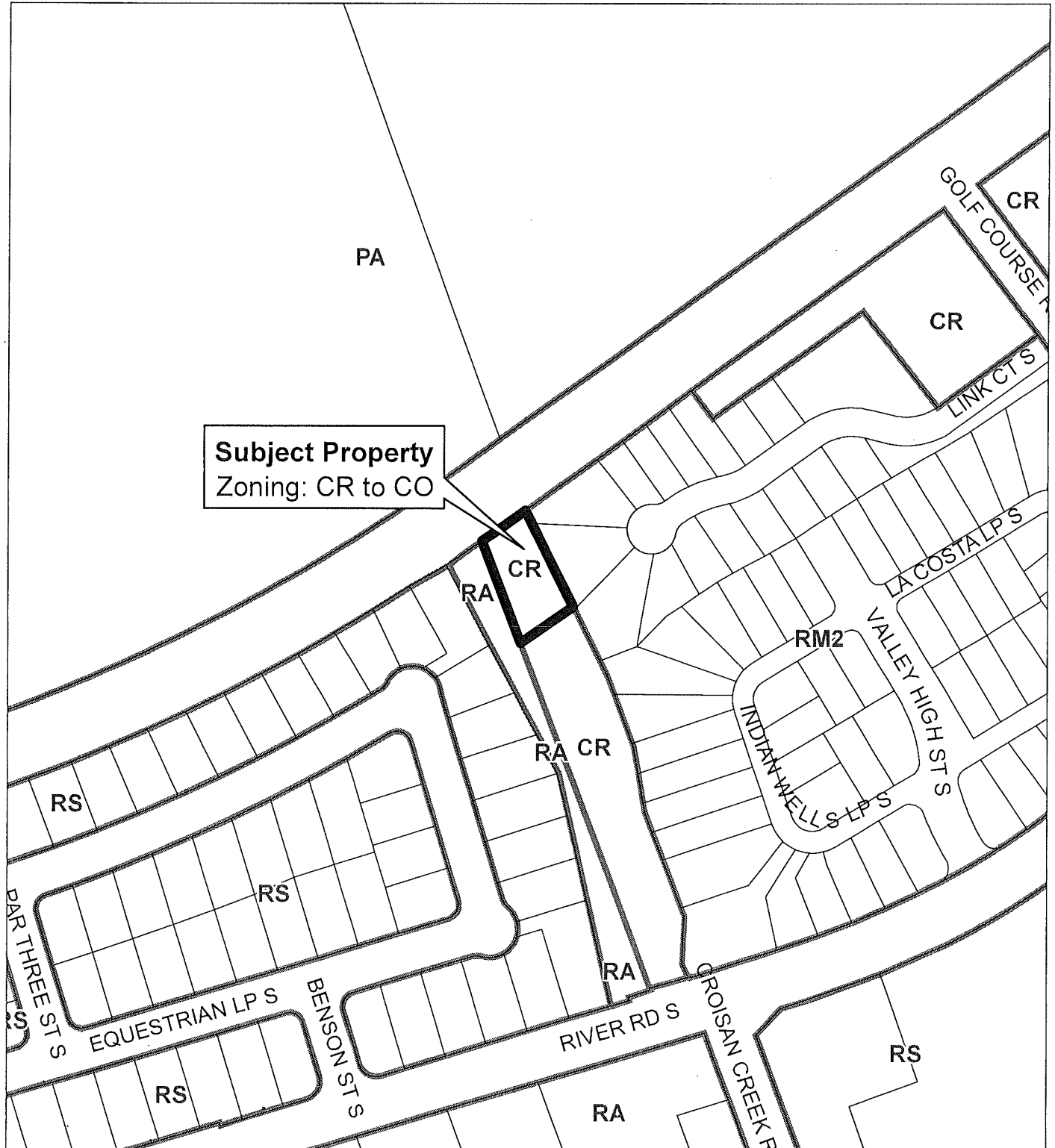
**CITY OF Salem**  
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Community Development Dept.

0 100 200 400 Feet



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# Zone Change/Partition 15-04



## Legend

- |           |                           |         |
|-----------|---------------------------|---------|
| <b>RS</b> | Base Zoning               | Taxlots |
|           | Urban Growth Boundary     | Parks   |
|           | Outside Salem City Limits | Schools |

0 50 100 200 Feet

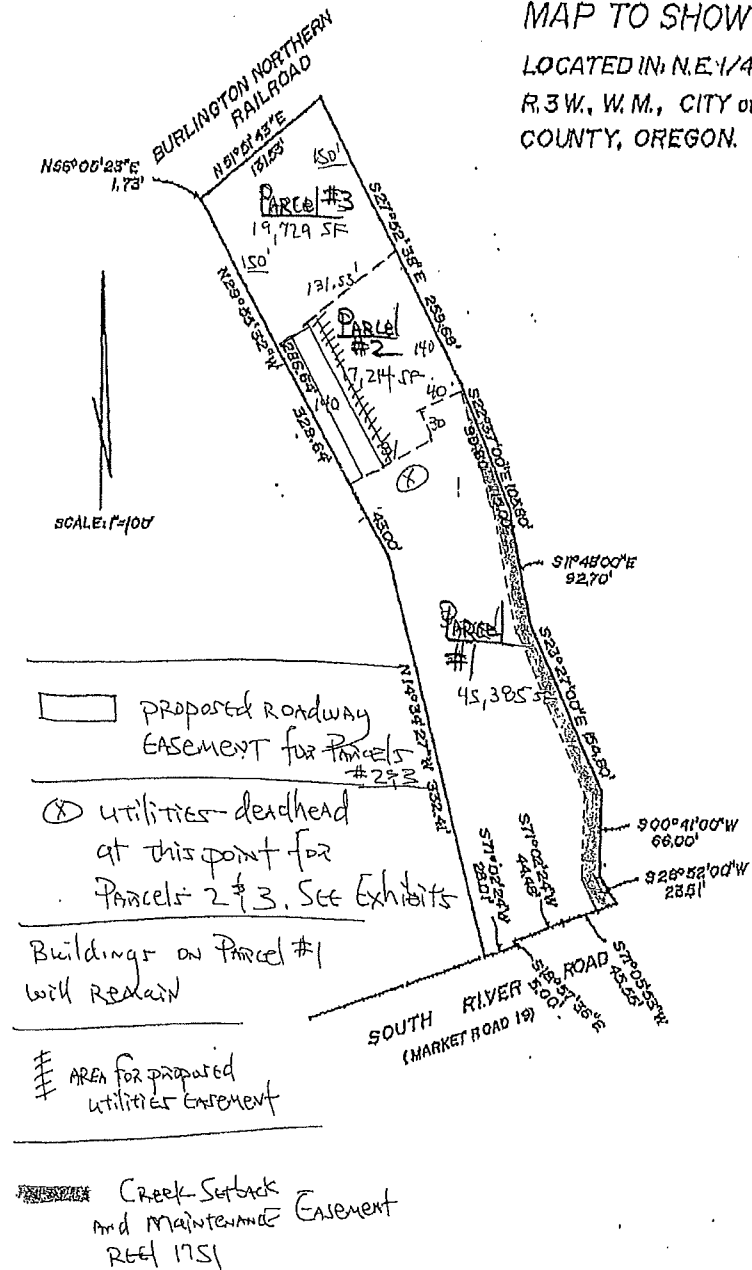


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CITY OF *Salem*  
AT YOUR SERVICE  
Community Development Dept.

Owner: River Building LLC, 3155 River Rd. So. Suite 150 Salem OR 97302  
 Surveyor original plan: Matt Dünckel, 3765 Riverside Dr. McMinnville OR 97128  
 Updated October 26, 2015 for this Application

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



**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

A CONSOLIDATED APPLICATION TO CHANGE THE ZONING OF PROPERTY LOCATED AT 3155-3175 RIVER ROAD SOUTH FROM CR (COMMERCIAL RETAIL) TO CO (COMMERCIAL OFFICE), AND TO PARTITION THE PROPERTY INTO THREE PARCELS TO ALLOW DEVELOPMENT OF TWO SINGLE FAMILY RESIDENCES NORTH OF THE EXISTING OFFICE BUILDING	)	ZC-PAR Case No. 15-04
	)	
	)	
	)	
	)	FINDINGS OF FACT
	)	CONCLUSIONS AND
	)	DECISION
	)	

**DATE AND PLACE OF HEARING:**

November 18, 2015, Salem City Council Chambers, 555 Liberty Street SE, Salem, Oregon

**APPEARANCES:**

<u>Staff:</u>	Christopher Green, Planner II
<u>Neighborhood Association:</u>	Southwest Association of Neighbors (SWAN); No appearance
<u>Proponents:</u>	Terrence Kay
<u>Opponents:</u>	None

**SUMMARY OF THE APPLICATION AND HEARING**

A consolidated application containing the following requests:

1) Change the zoning of that portion of the subject property zoned CR (Commercial Retail - Parcel 3 only) 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 3155-3175 River Road South.

**FINDINGS OF FACT AND CONCLUSIONS**

1. At the outset, an issue was raised as to the adequacy of the Notice for the Hearing. The Notice provided that it was a request to change the zoning for all of the portion of the property zoned CR (Retail Commercial) to CO (Commercial Office). The applicant testified that his intent was only to change the zoning for Parcel 3 if the partition is allowed; not for the entire portion of the property that is zoned CR (Retail Commercial). The Hearings Officer examined the Exhibits A & B, submitted by the Applicant. The Hearings Officer concludes that the Applicant made it clear that he intended only to change the zone CR to

CO for Parcel 3, and inadvertently the Notice provided for changing the zone for all of the property that was zoned retail commercial to commercial office. Therefore, because the application was consistent with the request, and the Hearings Officer notes the Notice was broader, not narrower, than what should have been allowed, the Hearings Officer finds that the Notice was adequate and the Hearing could proceed. The Hearings Officer notes that the City and the Applicant concurred with the finding that the Notice was adequate. After this issue was resolved, the Hearings Officer opened the Public Hearing and addressed the finding of facts and conclusions.

2. With regards to the zone change portion of this application, the following finding will relate only to Parcel 3 which will be created by the land partition application findings set forth later in this Order. The area of the re-zone extends approximately 150 feet south from the northeast corner of the subject property, and perpendicular from that line, extends westward to the existing boundary between comprehensive plan and zoning designations. The request would result in split zoning between CO and RA zoning on Parcel 3. The area within Parcels 1 and 2 would remain split zone between CR and RA.
3. The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Commercial."
4. The property is currently zoned CR (Retail Commercial). A Comprehensive Plan change is not required because the Commercial designation can be implemented to several zones, including the CO zone.
5. The City Planning staff submitted a supplemental report and that report finds that all of the criteria set forth in SRC 265.051(b)-(g) and SRC 265.005(2) has been satisfied. Based upon that supplemental testimony, the Hearings Officer determines that the criterion has been satisfied.
6. The zoning of the property is currently Retail Commercial and the surrounding property is zoned as follows:  
  
North: PA - Public Amusement - across railroad right-of-way  
South: RA - Residential Agriculture - across River Road S  
East: RM2 - Multiple Family Residential  
West: RS - Single Family Residential
7. The applicable criteria for zone changes are found in SRC 265.005, and specifically require it to be a quasi-judicial process:

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

**1) A mistake in the application of a land use designation to the property.**

It is the finding of the Hearings Officer that no mistakes in the application of the Comprehensive Plan designation of the subject property have occurred.

- 2) **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.**

The Hearings Officer concludes that there have been no significant changes in the economic, demographic, or physical character of the vicinity. However, the zone being requested is compatible with the vicinity's development pattern. Therefore, the Hearings Officer finds that this criterion has been satisfied.

- 3) **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 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.**

The Hearings Officer finds this criterion to be satisfied. 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 property and the one and two-family residential developments on the abutting properties.

Although the rezoning of the entire CR zoned portion of the property would result in split zoning and comprehensive plan designations on all three proposed parcels, staff found, and the Hearings Officer concurs that the surrounding residential development and relatively poor suitability of the rear portion of the property for retail and development, renders the proposed CO zone equally or better suited than the existing CR zone. The physical characteristics of the property which the Hearings Officer has found is detrimental to retail uses and therefore, this rezone is appropriate.

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

The Hearings Officer finds that this is not a City-initiated zone change; therefore, this criterion does not apply.

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

The Hearings Officer finds that this criterion has been satisfied. The Comprehensive Plan designates a portion of the property subject to the proposed zone change as "Commercial." Goals and policies for commercial development are contained in section 4G of the Salem Comprehensive Plan. The applicable goals and related policies are as follows:

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

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 change for Parcel 3 is consistent with the applicable commercial development policies as follows in this order:

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

The 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.

The applicant indicated that Parcel 3 was going to be used for the development of a residence and therefore, the buffer strip requirements of Policy 8 would be satisfied.

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

The City's adopted Comprehensive Plan implements the statewide planning goals and applicable administrative rules and has 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 provisions. Therefore, the Hearings Officer finds that this criterion has been satisfied.

**(E) If the zone change requires a comprehensive plan change from an industrial use designation to a nonindustrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed rezone is consistent with its 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 rezone; or include both the demonstration and an amendment to the Comprehensive Plan.**

It is the finding of the Hearings Officer that this criterion has been satisfied. The CO zone is one of the zones that implements the commercial designation and a concurrent Comprehensive Plan amendment is not required.

**(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 the conditions imposed upon the zone change.**

The proposed CO zone allows a far narrower range of potentially high-traffic retail sales and service uses than those already in the existing CR zone. Therefore, a change in the zone of this property will not create a significant effect on the existing transportation system. This criterion is satisfied.

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

The evidence shows that water and sewer services were constructed in 2001 for future uses on proposed Parcel 3, and these lines are adequately sized to handle this development.

- 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 have been satisfied.**

It is the finding of the Hearings Officer that this criterion has been satisfied. The existing CR zoning allows a wide range of retail and service uses but does not permit single family residential development. A proposed CO zone allows a much narrower range of retail and land services, and does allow single family residential uses; the applicant testified his intent for Parcel 3 fits into this range. Therefore, this criterion is satisfied.

#### **Criteria for Granting a Partitioning**

The Salem Revised Code 205.005 sets forth the criteria that must be met for the approval of a partition plan. Compliance with the conditions of approval to satisfy the subdivision ordinance is required prior to the City's staff signing the final plat.

- 8. Salem Revised Code 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.**

It is the finding of the Hearings Officer that this criterion has been satisfied. Compliance with conditions of tentative plat approval is checked prior to City staff signing the final partition plat. Furthermore, as conditioned, the proposed partition meets all of the applicable provisions of the Salem Revised Code as detailed in the following:

**SRC Chapter 205 (Land Division and Reconfiguration):** As proposed, and with the conditions of approval, the proposed partition conforms to all applicable SRC Chapter 205



requirements. This is the testimony that is contained in the staff report, and there was nothing that would lead the Hearings Officer to find differently. The tentative partition plan proposes to divide the subject property into three parcels. Proposed Parcel 1 which is approximately 45,385 square feet in size, is located on the south side of the property abutting River Road. This contains an office building currently in existence and the zoning on this property will not be affected. Proposed Parcel 2, which is approximately 17,214 square feet in size, is located in the middle of the subject property and proposed Parcel 3 which is approximately 19,729 square feet in size, is on the northern side of the property and this is where the housing is proposed. This is the only portion of the property that was subject to the zone change.

- (i) **SRC 521.010(a)** specifies minimum lot size, dimensional and frontage requirements; all parcels within this partition satisfy those standards. Furthermore, there are adequate utilities and streets to serve the development. Conditions of approval establish part of this decision ensure that utilities are provided in conformance with the City's public facilities plans.
- (ii) **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.
- (iii) **SRC Chapter 65 (Excavation and Fills):** SRC Chapter 65 establishes standards to ensure that any excavation or fill adjacent to public right-of-ways or within public easements does not create a public nuisance. It is the finding of the Hearings Officer that there is no evidence that the subject property cannot be developed consistent with these provisions.
- (iv) **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 permit is not required.
- (v) **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. Thus, this standard has been met.
- (vi) **SRC Chapter 808 (Preservation of Trees and Vegetation):** The City's tree preservation ordinance protects a number of different kinds of trees and requires a tree conservation plan under certain circumstances. There are no trees on this portion of the property where new lots are proposed for a single family residence; therefore, no tree conservation plan is required.
- (vii) **SRC Chapter 809 (Wetlands):** This property has no identified wetlands.

- (viii) **SRC Chapter 810 (Landslide Hazards):** Based upon the point value established in the testimony, a geological assessment may be required if a regulated development activity is proposed in the landslide hazard area.
- (ix) **SRC Chapter 521 (Commercial Office Zone):** The subject property is zoned Single Family Residential. SRC Chapter 521 specifies minimum lot size and dimension requirements, building setbacks, and lot coverage standards. The proposed Parcel 3 provides a reasonable development opportunity consistent with SRC Chapter 521.
- (x) **SRC Chapter 806 (Off-Street Parking, Loading and Driveways):** At the time of development, minimum off-street parking requirements will be required and complied with; as it applies to Parcel 3, and with that approval, this criterion is satisfied.

**9. SRC Chapter 205.005(d)(2): The tentative partition plan does not impede the future use or development of the property or adjacent lands.**

It is the finding of the Hearings Officer that this criterion has been satisfied. 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. Therefore, this criterion has been satisfied.

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

It is the finding of the Hearings Officer that, with conditions, this criterion can be satisfied. Based upon the Public Works Department's review and the statement of the finding that water, sewer, and storm infrastructure is available along the perimeter of the site, it appears to be adequate for future development. 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 system 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 infrastructure to be located within the public right-of-way shall be constructed or secured as required by the Salem Revised Code prior to final plat approval. In order to ensure that necessary easements are provided for access and public utilities, the Hearings Officer adopts the following conditions:

**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.**

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

It is the finding of the Hearings Officer that this criterion has been satisfied. While the southern portion of the property abuts River Road S, the applicant has proposed a flag lot accessway along the western portion of the property to serve proposed Parcels 2 and 3. The flag lot accessway would extend an existing driveway serving the development on proposed Parcel 1. Pursuant to SRC 800.025(c), a flag lot accessway serving one to four lots of non-residential zoned property must be a minimum total width of 25 feet, 20 feet of which must be paved. The maximum lot accessway length of 400 feet shall not apply where geographic features make it impractical and when approved by the planning administrator following review and recommendation by the fire marshal. Given the long, narrow shape of the site and the existing development on three sides, the Hearings Officer finds that the geographic features of the subject property make the maximum flag lot accessway standard length impractical in this case. However, the applicant will be required to satisfy any applicable fire department requirements for development on Parcels 2 and 3 at the time of the issuance of the building permit.

**12. 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.**

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. Therefore, this criterion has been satisfied.

**13. SRC 205.005(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.**

The Hearings Officer finds that this criterion is satisfied. However, in order to ensure that the boundary of the floodway is clearly indicated, the Hearings Officer adopts the following condition:

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

**14. 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.**

It is the finding of the Hearings Officer that this criterion has been satisfied. 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 vegetation and topography of the site.

15. **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 five (5) acres in size and, except for flag lots, have no dimensions less than 100 feet.**

The Hearings Officer finds this criterion to be satisfied. The site is served by available sewer and water.

16. Under the proposed partition, each of the existing uses and all of the off-street parking spaces would be located on proposed Parcel 1. In order to ensure that the extension of the flag lot accessway does not result in the number of off-street parking spaces provided on Parcel 1 being diminished, below minimum requirements, the Hearings Officer adopts the following condition of final plat approval:

**Condition 5: Provide at least a minimum number of off-street parking spaces required for existing uses on Parcel 1. Such required off-street parking for uses on Parcel 1 may be located on Parcel 1 or on surrounding properties, pursuant to the requirements of SRC Chapter 806, but may not be located within the proposed 25-foot wide flag lot accessway serving Parcels 2 and 3.**

Based upon the foregoing, the Hearings Officer makes the following:

### **DECISION**

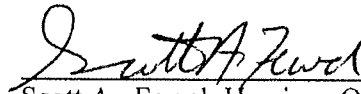
The Hearings Officer APPROVES the zone change for Parcel 3 (consisting of approximately 19,729 square feet) in the Partition, and the Partition, for property approximately 1.89 acres in size, designated Commercial and Developing Residential on the Plan Map, zoned CR (Retail Commercial) and RA (Residential Agriculture), and located at 3155-3175 River Road S., Salem, Oregon. The Hearings Officer also GRANTS the partition plan dividing the 1.89 acres into three (3) parcels, with Parcel 1 consisting of approximately 45,385 square feet, proposed Parcel 2 consisting of 17,214 square feet, and Parcel 3 consisting of 19,729 square feet.

This approval is subject to the following conditions:

**Condition 1: Provide a stormwater utility plan showing existing stormwater system 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.**

- 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.
- Condition 4:** Designate the floodway boundary on the final plat.
- Condition 5:** Provide at least a minimum number of off-street parking spaces required for existing uses on Parcel 1. Such required off-street parking for uses on Parcel 1 may be located on Parcel 1 or on surrounding properties, pursuant to the requirements of SRC Chapter 806, but may not be located within the proposed 25-foot wide flag lot accessway serving Parcels 2 and 3.

DATED: December 2, 2015.

  
Scott A. Fewel, Hearings Officer