



HEARING NOTICE

LAND USE REQUEST AFFECTING THIS AREA

Audiencia Pública

Si necesita ayuda para comprender esta información, por favor llame 503-588-6173.

CASE NUMBER:	Appeal of the <i>Planning Commission's</i> decision on Comprehensive Plan Change / Zone Change / Zone Change Case No.CPC-ZC-ZC19-10
AMANDA APPLICATION NO.:	19-108088-ZO, 19-109021-ZO & 19-114785-ZO
HEARING INFORMATION:	<u>CITY COUNCIL, Monday, October 28, 2019 at 6:00 p.m., in the Council Chambers, Room 240, Civic Center, 555 Liberty Street SE, Salem, OR 97301</u>
PROPERTY LOCATION:	2465, 2499, 2501 & 2519 Wallace Rd NW & 1221 Riverbend Rd NW, Salem, OR 97304
PROPERTY OWNER:	3030 Riverbend, LLC (Scott Martin) & State of Oregon Department of Transportation
APPLICANT:	3030 Riverbend, LLC (Scott Martin)
REPRESENTATIVE:	Geoffrey James, Architect
APPELLANT:	Jim Allhiser and Steve Anderson on behalf of West Salem Neighborhood Association
DESCRIPTION of REQUEST:	<p>SUMMARY: Appeal of the <i>Planning Commission's</i> decision on an application to change the Comprehensive Plan Map designation and/or zoning for several tax lots to accommodate future commercial and mixed use development.</p> <p>REQUEST: Appeal of the <i>Planning Commission's</i> decision on a consolidated application to change:</p> <ol style="list-style-type: none">(1) The Comprehensive Plan Map designation from "Single-Family Residential" to "Mixed Use" and zoning from RS (Single Family Residential) to MU-II (Mixed Use 2) for approximately 6.2 acres located at 2499 Wallace Rd NW (Polk County Assessor Map and Tax Lot 073W09CD01000), 2501 Wallace Rd NW (Polk County Assessor Map and Tax Lot 073W09CD00900), and 2519 Wallace Rd NW (Polk County Assessor Map and Tax Lot 073W09CD01101) and(2) The Comprehensive Plan Map designation from "Multi-Family Residential" to "Mixed Use" and zoning from RD (Duplex Residential) to MU-II (Mixed Use 2) for approximately 1.3 acres (Polk County Assessor Map and Tax Lot 073W09CD01301) <p>for a future mixed-use multi-family and commercial development in Phase 2 of the Riverbend Mixed Use Neighborhood Center and change</p> <ol style="list-style-type: none">(3) The Comprehensive Plan Map designation from "Single-Family Residential" to "Commercial" and zoning from RS (Single Family Residential) to CR (Retail Commercial) for a 0.15-acre property located at 2465 Wallace Road NW 97304 (Polk County Assessor Map and Tax Lot 073W16BA09900) and(4) The zoning from CO (Commercial Office) to CR (Retail Commercial) for a 1.582-acre portion of a property located at 1221 River Bend Road NW 97304 (Polk County Assessor Map and Tax Lot Number 073W16BA10000) <p>for a future commercial development in Phase 1 of the Riverbend Mixed Use Neighborhood Center.</p>

BASIS OF APPEAL:

See attached letter of appeal.

CRITERIA TO BE CONSIDERED:

Comprehensive Plan Change

Pursuant to SRC 64.025(e)(2), the greater the impact of the proposed Minor Plan Map Amendment, the greater the burden on an applicant to demonstrate that the criteria are satisfied. A Minor Plan Map Amendment may be made if it complies with the following:

- (A) The Minor Plan Map Amendment is justified based on the existence of one of the following:
 - (i) Alteration in Circumstances. Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.
 - (ii) Equally or Better Suited Designation. A demonstration that the proposed designation is equally or better suited for the property than the existing designation.
 - (iii) Conflict Between Comprehensive Plan Map Designation and Zone Designation. A Minor Plan Map Amendment may be granted where there is a conflict between the Comprehensive Plan Map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the Comprehensive Plan Map designation. In determining whether the zoning designation is the more appropriate designation, the following factors shall be considered:
 - (aa) Whether there was a mistake in the application of a land use designation to the property;
 - (bb) Whether the physical characteristics of the property are better suited to the uses in zone as opposed to the uses permitted by the Comprehensive Plan Map designation;
 - (cc) Whether the property has been developed for uses that are incompatible with the Comprehensive Plan Map designation; and
 - (dd) Whether the Comprehensive Plan Map designation is compatible with the surrounding Comprehensive Plan Map designations.
- (B) 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 plan map designation;
- (C) The proposed plan map designation provides for the logical urbanization of land;
- (D) The proposed land use designation is consistent with the Salem Area Comprehensive Plan and applicable Statewide planning goals and administrative rules adopted by the Department of Land Conservation and Development; and
- (E) The amendment is in the public interest and would be of general benefit.

ZONE CHANGE (Quasi-Judicial)

Pursuant to SRC 265.005(e), a *QUASI-JUDICIAL ZONE CHANGE* shall be granted if the following criteria are met:

- 1. A quasi-judicial zone change shall be granted if all of the following criteria are met:
 - A. The zone change is justified based on the existence of one or more of the following:
 - (i) A mistake in the application of a land use designation to the property;
 - (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or
 - (iii) A demonstration that the proposed zone 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.
 - 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.
 - C. The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.
 - D. The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.
 - E. If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other 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.

- 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.
 - 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.
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.

HOW TO PROVIDE TESTIMONY:

Any person wishing to speak either for or against the proposed request may do so in person or by representative at the Public Hearing. Written comments may also be submitted at the Public Hearing. Include case number with the written comments. Prior to the Public Hearing, written comments may be filed with the City Recorder, 555 Liberty Street SE, Room 205, Salem, OR 97301.

HEARING PROCEDURE:

The hearing will be conducted with the staff presentation first, followed by the proponent's case, neighborhood organization comments, appellant's case (if other than the proponent), persons opposed, other interested persons, rebuttal and surrebuttal. The applicant has the burden of proof to show that the approval criteria can be satisfied by the facts. Opponents may rebut the applicant's testimony by showing alternative facts or by showing that the evidence submitted does not satisfy the approval criteria. Failure to raise an issue prior to the close of the Public Hearing in person or in writing, or failure to provide statements or evidence with sufficient specificity to provide the applicant and Review Authority to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court. Following the close of the Public Hearing, a decision will be issued and mailed to the appellant, applicant, property owner, affected neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision.

CASE MANAGER

Pamela Cole, Case Manager, City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Telephone: 503-540-2309; E-mail: pcole@cityofsalem.net.

NEIGHBORHOOD ORGANIZATION

West Salem Neighborhood Association, Steven Anderson, Land Use Chair; Email: andersonriskanalysis@comcast.net.

DOCUMENTATION AND STAFF REPORT

Copies of the application and all documents and evidence submitted as part of the proceeding are available for inspection at no cost at the Planning Division office during regular business hours. Copies can be obtained at a reasonable cost.

The Staff Report with recommendation to City Council will be available for inspection at no cost, and copies will be provided at reasonable cost, at least 7 days prior to the hearing at the Community Development Department, 555 Liberty Street SE, Room 305, Salem, Oregon 97301.

ACCESS

The Americans with Disabilities Act (ADA) accommodations will be provided on request upon 48 hours notice.

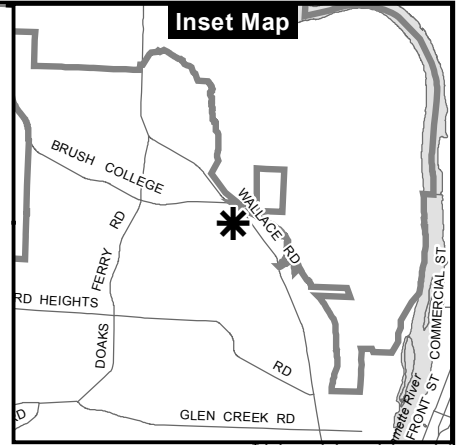
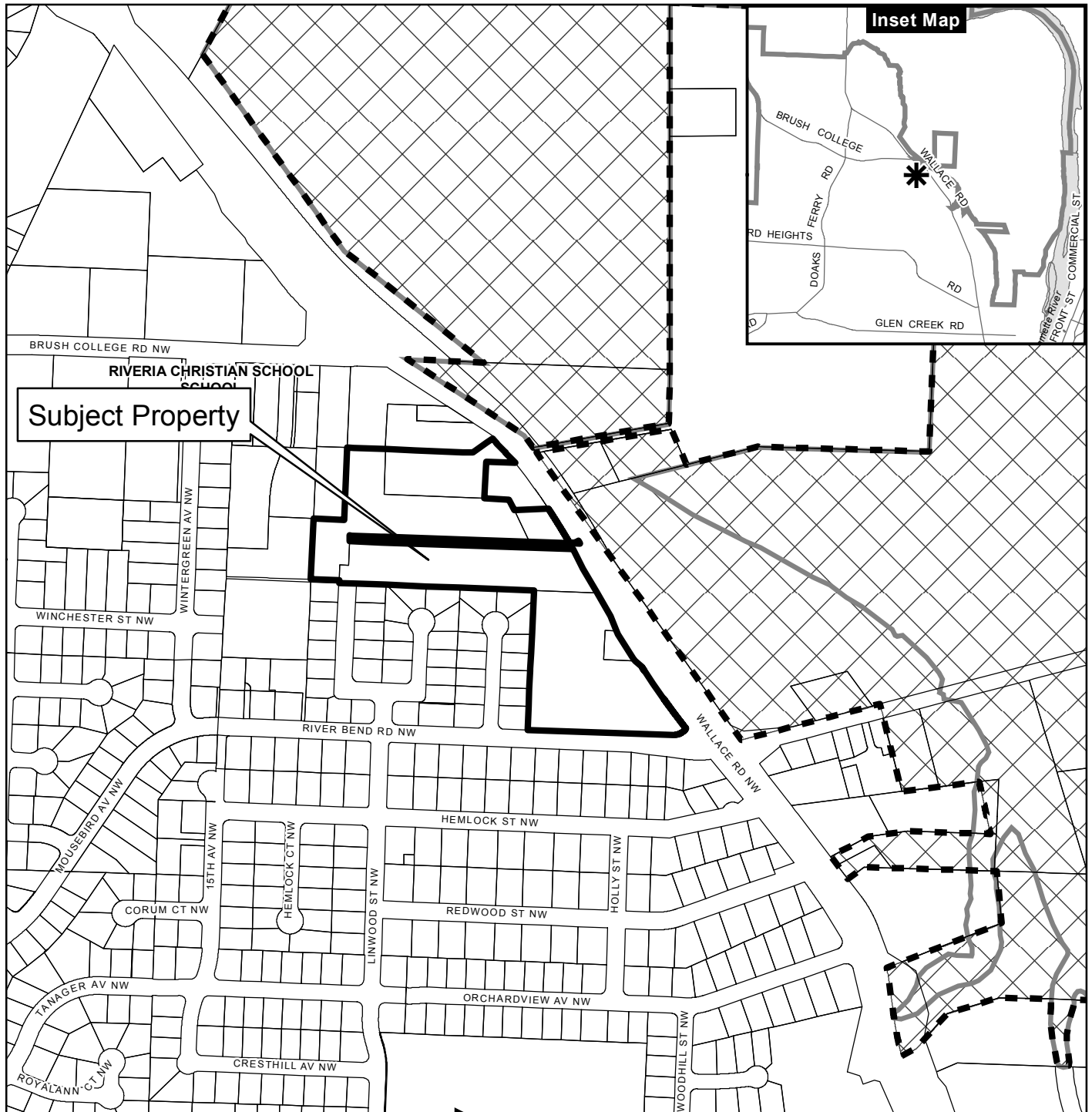
NOTICE MAILING DATE

October 8, 2019

For more information about Planning in Salem:
<http://www.cityofsalem.net/planning>








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Vicinity Map - 2465, 2499, 2501, and 2519 Wallace Rd NW and 1221 River Bend Rd NW



Subject Property

Legend

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

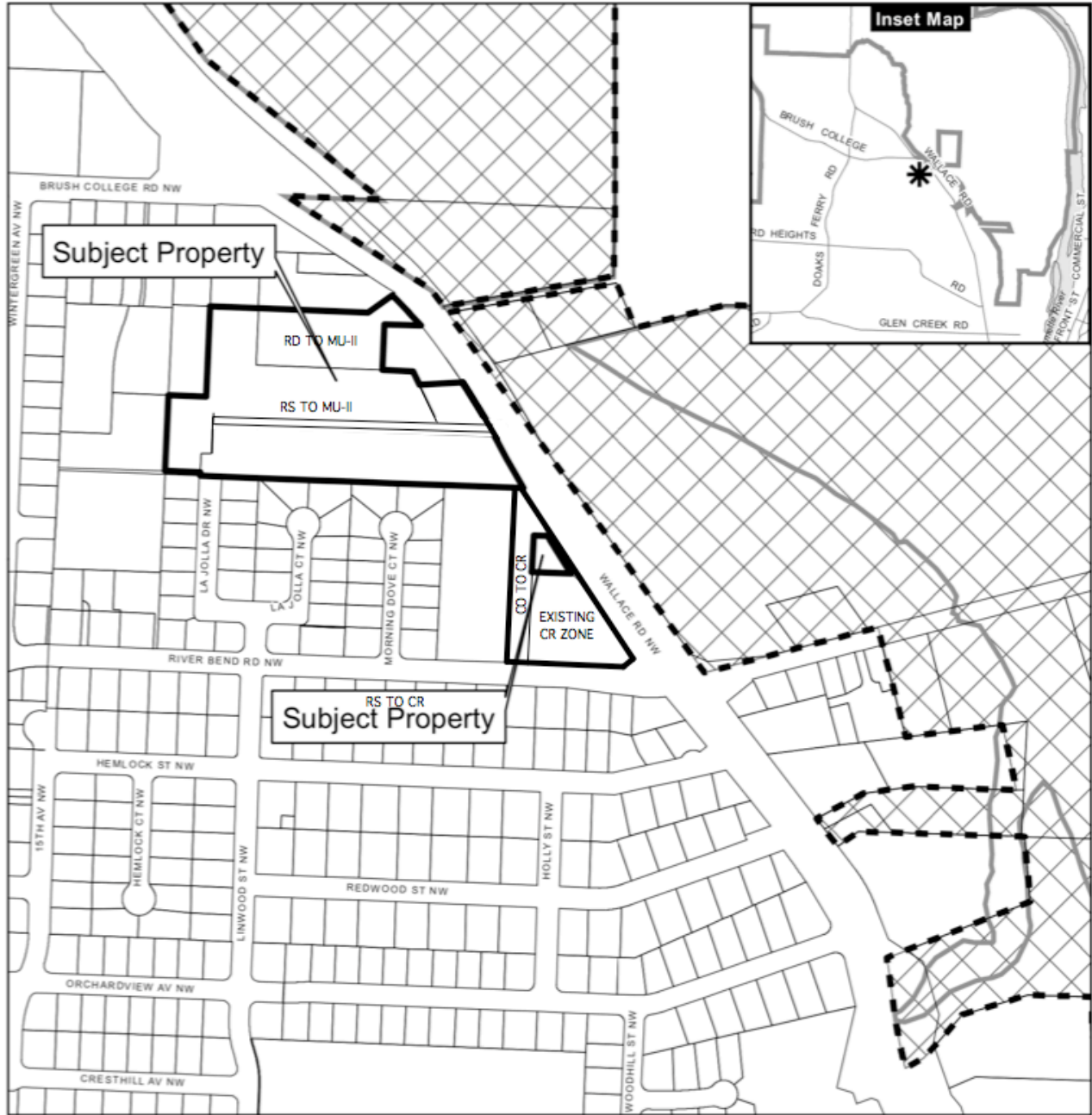
CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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Vicinity Map 2465, 2499, 2501, 2519 Wallace Rd NW



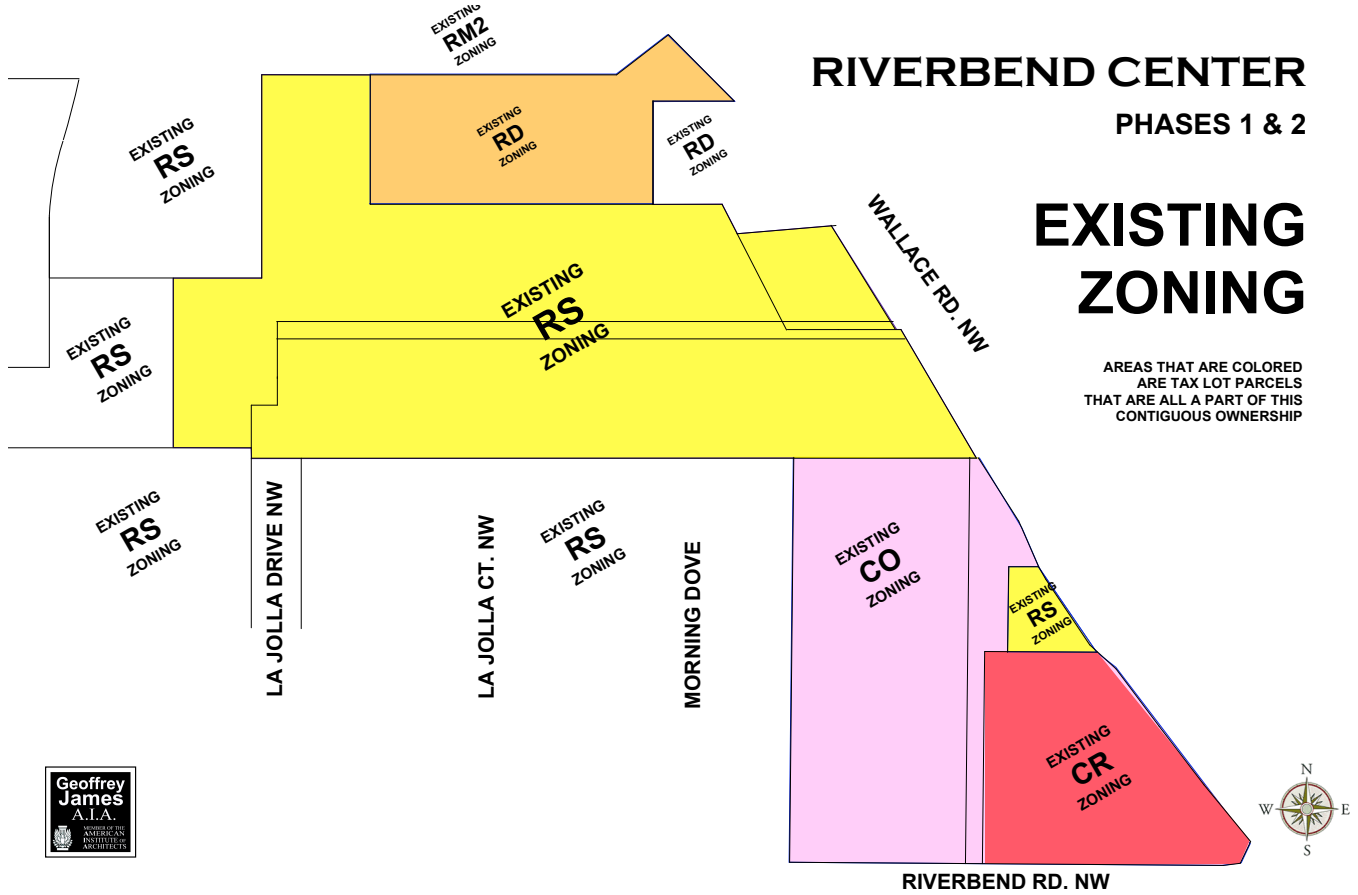
Legend

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

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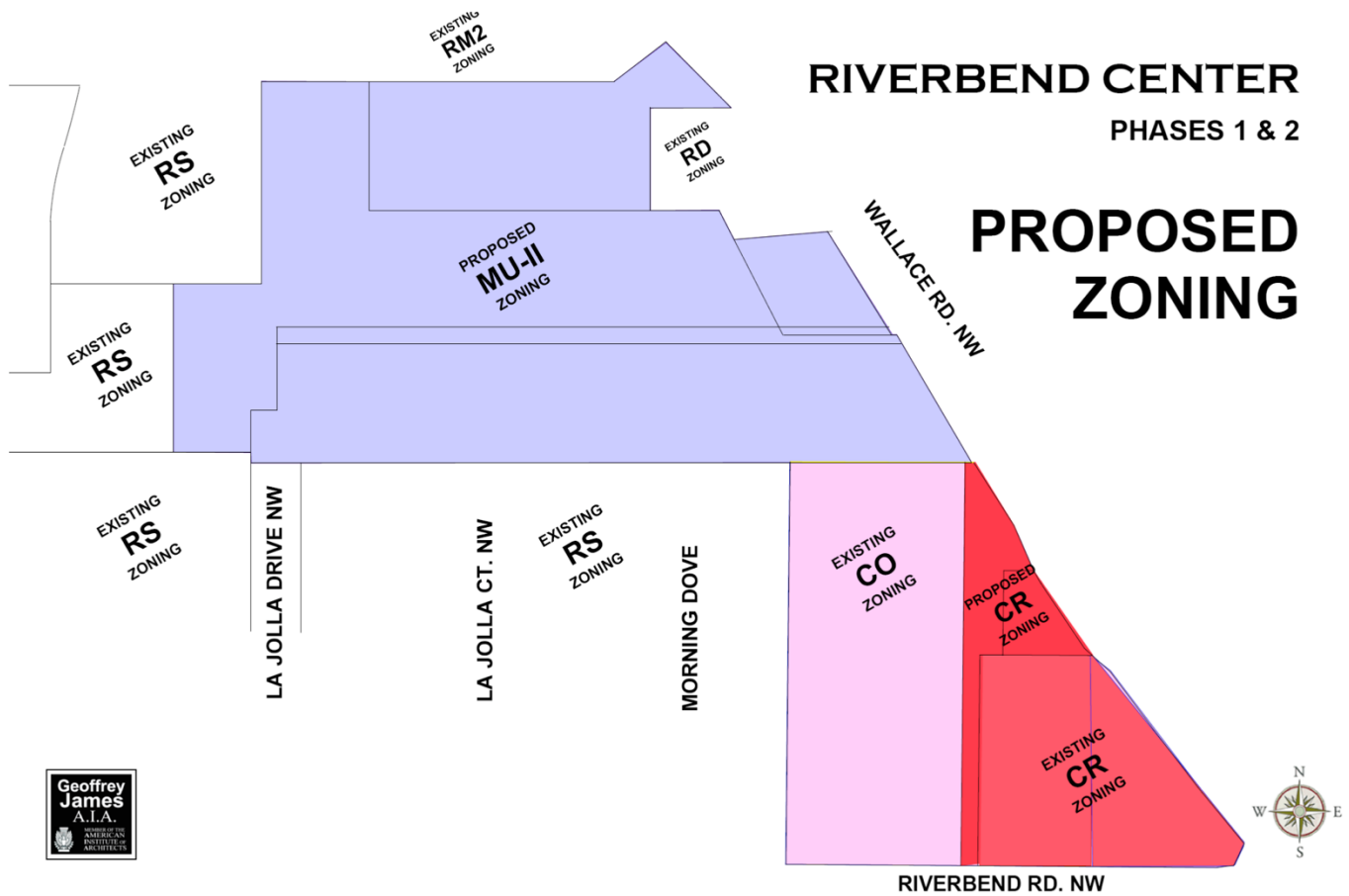
EXISTING ZONING

This diagram is the existing zoning of the actual subject properties in contiguous ownership by the applicant. Phase 1 (at the south) was zoned in 2017 to CR & CO. There was a small RS lot that was not included but is now acquired, and is now included in this ZC/CPC application.



PROPOSED ZONING

This diagram is the proposed zoning of the subject properties. Phase 1 (at the south) was zoned in 2017 to CR & CO. There was a small RS lot that was not included, but is included in this current ZC/CPC application, and the CR zoning for the three retail buildings is proposed to be “squared off” or extended to encompass this additional lot, and is contiguous with Phase 2. The retail along Wallace is therefore intended to all be in the CR zone. The apartments to the west, will remain in the CO “half” of Phase 1. Phase 2 (the northern portion) is all proposed to be MU-2 zoning to permit this proposed Mixed-Use development of shops and apartments, all connected by pedestrian walks.



September 19, 2019

TO: Salem Planning Department Administrator
RE: Appeal of Comprehensive Plan Change / Zone Change / Zone Change No. CPC-ZC19-10
FR: Jim Allhiser, West Salem Neighborhood Association Chair

The West Salem Neighborhood Association town hall meeting on September 14, 2019, voted to appeal to Council the Salem Planning Commission decision approving CPC-ZC19-10. The section of the meeting's Draft Minutes of the discussion and motion are provided below. Complete meeting minutes are available on the WSNA Facebook page. The appeal centers on the three points offered in testimony before the Salem Planning Commission on this matter whereas the WSNA discussed this in detail and voted to appeal the decision as they were not adequately addressed as to points of fact and detail per applicable rules and regulations. Lead representative for this WSNA appeal is Steve Anderson (Land Use Committee) who testified before the Planning Commission (contact information in the appeal form).

Sincerely,

Jim Allhiser
WSNA Chair

DRAFT MINUTES ON THIS MATTER

Land Use – Steve Anderson (speaking for Sarah DuVal) Need for people to be on the land use committee. Please, if you are interested, contact Jim or Sarah. Extensive discussion around 2 issues, related yet separate.1 – discussion to appeal Planning Commission's decision regarding Phase 2 of the Riverbend project on the grounds that traffic impacts, studies, mitigation, etc. including comments from WSNA were not considered and were not even consistent with Phase 1 of the project.2 – discussion to raise issue to the City Council to discuss what the traffic infrastructure plans are for West Salem now that no third bridge is being considered. Since the Salem River Crossing studies are "thrown out" allegedly the traffic counts and studies done to support that effort have no basis or standing for consideration in any current land use issue. That is, since we threw out the data that shows Glen Creek and Orchard Heights at Wallace Road are "failed" in terms of capacity; we don't have any data to cite that they are failed, so, they aren't. As such, no mitigation or considerations necessitated by ODOT or other planning goals apply, because there's no data to show that the intersections have failed. But, anyone who commutes in the morning can tell you the traffic didn't disappear just because we threw away the studies from SKATS/MWVCOG. Furthermore, extensive discussion about how in general all members present at the meeting felt that the city services they receive are not commensurate with the taxes they pay. That is, their level of service for police patrols, emergency public works equipment, and other basic city services are at a lower per-capita level than the rest of the city. Additionally, extensive discussion that traffic mitigation such as trip caps are not effective because not to anyone's knowledge has anyone ever "enforced" a trip cap. That is, who measures the trips after a development is done. How does one enforce a trip cap? How many times has a trip cap been

enforced by either restricting traffic or imposing fines? Who gets fined? Who gets fined 10 years from now? Lastly, extensive discussion that the land use planning process does not take into account the cumulative effects of development over time, and that no link exists between the cumulative effects and road infrastructure improvement processes. Discussion that 309 lists (infrastructure improvement projects) are not prioritized based on where the funding (systems development charges) actually came from. Motion by Kevin Chambers to appeal the riverbend decision based upon the information in the traffic analysis versus Statewide planning goals, and motion to discuss at city council the 3 bullet points raised by our land use committee and the letter from WSNA's past regarding infrastructure improvements. Second by Craig Evans Vote: 30 Aye, 0 Nay, 0 abstain