

TO: PLANNING COMMISSION

**FROM: LISA ANDERSON-OGILVIE, AICP
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND
PLANNING ADMINISTRATOR**

**SUBJECT: REMAND OF MINOR COMPREHENSIVE PLAN MAP AMENDMENT & ZONE
CHANGE CASE NO. CPC-ZC21-04; FOR PROPERTY LOCATED AT 2900
BLOCK OF KUEBLER BLVD SE (AMANDA APPLICATION NO. 21-115803-
ZO; 21-115805-ZO)**

REQUEST

UPDATED proposal is to change the Comprehensive Plan Map designation and zoning from “Single Family Residential” with RA (Residential Agriculture) zoning to “Commercial” and “Mixed Use” with ~~CR (Retail Commercial), CO (Commercial Office)~~ and MU-II (Mixed Use) and MU-III (Mixed Use) zoning. The subject property is approximately 24.66 acres in size, zoned RA (Residential Agriculture) and located at the southwest corner of the intersection of Kuebler Boulevard and I-5 (Marion County Assessor Map and Tax Lot Number: 083W12C / 2201).

APPLICANT: Doug Sproul, Boone Road Commercial LLC

OWNER: Kuebler Cascade View LLC (Thomas Wettlaufer, Gordon Satrum, Dirk Stangier)

REPRESENTATIVE: Mark Shipman, Saalfeld Griggs Lawyers

RECOMMENDATION

APPROVE Comprehensive Plan Map Change & Zone Change, Case No. 21.04, as modified by applicant, and conditioned below.

PROCEDURAL FINDINGS

1. On August 25, 2021, an application was filed for a Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change by Mark Shipman of Saalfeld Griggs PC, on behalf of Boone Road Commercial LLC, to change 24.66-acres, the subject property, from RA (Residential Agriculture) to CR (Retail Commercial).
2. The consolidated application was deemed complete for processing on September 23, 2021, and a public hearing to consider the application was scheduled for November 2, 2021.
3. On June 10, 2021, the applicant’s representative attended the South Gateway Neighborhood Association meeting, held virtually, to present their proposal, meeting the open house requirements of SRC 300.320.

4. Notice of the consolidated application was provided to surrounding property owners and tenants, pursuant to Salem Revised Code (SRC) requirements, on October 13, 2021. The property was posted in accordance with the posting provision outlined in SRC 300.620.
5. DLCD Notice. State law (ORS 197.610) and SRC 300.620(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-day notice when an applicant or the City proposes an amendment to an acknowledged Comprehensive Plan or land use regulation or to adopt a new land use regulation. The City sent notice of the proposed Comprehensive Plan Change and Zone Change application to DLCD on September 24, 2021.
6. On November 2, 2021, the Planning Commission held a public hearing for the consolidated applications. The Planning Commission received testimony from the applicant and from the public. The public hearing was continued until November 16, 2021.
7. On November 16, 2021, the Planning Commission continued the public hearing until December 21, 2021, by request of the applicant to discuss with staff concerns regarding the Transportation Planning Rule analysis.
8. On December 21, 2021, the Planning Commission took testimony from the application and public, then closed the public hearing. The Commission voted to grant the Comprehensive Plan Change and Zone Change applications with three conditions of approval.
9. On January 25, 2022, the Planning Commission considered an Order with attached Facts and Findings prepared by staff. The applicant submitted an objection to the proposed Facts and Findings. The Commission voted to open the written record to review the applicant's objections.
10. On February 1, 2022, the Planning Commission voted to approve the Order and Facts and Findings prepared by staff after reviewing all evidence submitted into the record.
11. On February 7, 2022, the South Gateway Neighborhood Association filed an appeal. A hearing was scheduled before the City Council on March 28, 2022.
12. Between February 7, 2022, and March 28, 2022, the applicant's representatives repeatedly met with representatives of the South Gateway Neighborhood Association to discuss alternatives to the Planning Commission decision.
13. On March 8, 2022, notice of the hearing was sent to the South Gateway Neighborhood Association and surrounding property owners and tenants pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on March 14, 2022.
14. On March 15, 2022, the applicant altered the proposal to change 14.55 acres of the property to a Commercial designation with Commercial Retail (CR) zoning and 9.8 acres of Mixed-Use designation with Mixed-Use II (MU-II) zoning – the "**Mixed-Use**" proposal.

15. On March 28, 2022, the City Council opened the public hearing, took no testimony, and continued the hearing until May 9, 2022.
16. On May 9, 2022, City Council held a public hearing and received written and oral public testimony regarding the (alternative) Mixed-Use proposal. A motion was passed to close the public hearing, City Council conducted deliberations and voted to remand the decision to the Planning Commission for further consideration on the Mixed-Use proposal, with instructions to incorporate all new evidence that was presented to the City Council, including the public hearing recording, in their reconsideration of the application.

The video of the City Council public hearing may be viewed [here](#) (Agenda Item 4.a). The staff report and testimony received by the City Council can be viewed [here](#).
17. The applicant submitted a revised application, including an updated traffic study on August 22, 2022.
18. Notice of the Planning Commission hearing was sent to the South Gateway Neighborhood Association and surrounding property owners and tenants pursuant to Salem Revised Code requirements. Notice of the hearing was posted on the subject property on September 15, 2022.
19. Subsequent to the notice, the applicant revised their proposal to eliminate their request for CR and CO zoning and instead are proposing a zoning designation of MU-II (Mixed Use-II) for 8.06 acres, and MU-III (Mixed Use-III) for 16.58 acres.
20. The Planning Commission's new decision will be the final decision of the City, unless a new appeal is filed, or the City Council elects to initiate review of the new decision, pursuant to SRC 300.1050.

SUMMARY OF RECORD

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 21 115803. Additional information is available in the associated application folder: 21 115805.

BACKGROUND

Proposal

On August 25, 2021, an application was filed for a Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change to "Commercial" and Retail Commercial zoning by Mark Shipman of Saalfeld Griggs PC, on behalf of Boone Road Commercial LLC, to change 24.66-acres.

After the City Council Hearing, the applicant submitted additional traffic information (updated TPR analysis) and findings with a modification to the proposed Comprehensive Plan Map change and Zone Change request to Commercial (Commercial) for the 24.66-acre subject property, and a zone change from RA (Residential Agriculture) to CR (Commercial Retail) for 9.37 acres, MU-II (Mixed Use-II) for 8.07 acres, and CO (Commercial Office) for 7.21 acres.

During recent discussions with Staff, the applicant has modified after public notice was sent. The current request by the applicant is to change the Comprehensive Plan Map change and Zone Change request to Mixed Use with a zoning designation of MU-II (Mixed Use-II) for 8.06 acres, and MU-III (Mixed Use-III) for 16.58 acres.

An updated map of the area subject to the proposed zoning map change and conceptual plan is included as **Attachment D**.

FACTS AND FINDINGS

1. Salem Area Comprehensive Plan (SACP) Designation

The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Developing Residential."

The Comprehensive Plan designations of surrounding properties include:

North: (Across Kuebler Boulevard SE) "Commercial"

South: (Across Boone Road SE) "Developing Residential" and "Multiple Family"

East: Right-of-way for Interstate 5

West: (Across 27th Avenue SE) "Commercial"

Components of the Comprehensive Plan

The Salem Area Comprehensive Plan is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meets the needs of present and future residents of the Salem urban area. Many different documents and maps, when taken together, comprise the Salem Area Comprehensive Plan.

Salem Transportation System Plan (TSP): The TSP uses a Street Classification System to determine the functional classification of each street within the City's street system. The subject property is abutted by designated collector street to the west (27th Avenue SE). Kuebler Boulevard SE, a designated parkway, runs along the north property boundary. Right-of-way for the Interstate 5 freeway and interchange ramps form part of the eastern boundary of the site.

Neighborhood Plan: The subject property is within the boundary of the Southgate Neighborhood Association (SGNA), which does not have an adopted neighborhood plan.

2. Zoning

The subject property is zoned RA (Residential Agriculture). Surrounding properties are zoned as follows:

North: (Across Kuebler Boulevard SE) CR (Retail Commercial)

South: (Across 27th Avenue SE) RA (Residential Agriculture) and RM-II (Multiple Family Residential)

East: Right-of-way for Interstate 5

West: (Across 27th Avenue SE) CR (Retail Commercial)

3. Existing Conditions

Relationship to the Urban Service Area

The subject property is located outside of the City's Urban Service Area. Pursuant to the Urban Growth Management requirements contained under SRC Chapter 200, an Urban Growth Preliminary Declaration is required. An Urban Growth Preliminary Declaration application was previously approved (UGA09-08) and is now expired.

Land Use History

Comprehensive Plan Change/ Zoning Change (CPC/ZC 93-15); A joint Annexation, Comprehensive Map Change and Zone Change. (Not approved by voters, Expired)

Annexation Case (ANXC-688); Annexation of subject property effective April 4, 2011.

Urban Growth Preliminary Declaration (UGA09-08); A UGA Development permit for approximately 40 acres (subject property and property south of Boone Road) to determine public facilities required for the properties.

4. Public and Private Agency Review

Salem Public Works Department – The Public Works Department, Development Services Section, reviewed the proposal and submitted comments in the record.

Salem Fire Department – The Salem Fire Department submitted comments indicating that they have no concerns with the request.

Salem Building and Safety Division – The Building and Safety Division has reviewed the proposal and indicated no concerns.

Oregon Department of Land Conservation and Development (DLCD) – No comments received.

Cherriots – Cherriots commented during the first Planning Commission review indicating two

stops should be provided to facilitate the expansion of the existing public transportation routes. The applicant and Cherriots discussed providing stops on the proposed north-south street on south of the round-about. A condition of approval to locate stops, at Cherriots request, is applied below.

5. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the South Gateway Neighborhood Association. The property is adjacent to the Morningside Neighborhood Association (across Kuebler Boulevard SE) and Southeast Mill Creek Association (SEMCA) (across Interstate – 5).

Required Open House/Neighborhood Association Meeting. Prior to application submittal, SRC 300.320 requires the applicant for a proposed minor amendment to the City's comprehensive plan map to either arrange and conduct an open house or present their proposal at a regularly scheduled meeting of the neighborhood association the property is located within. On June 10, 2021, the applicant's representative attended the Northgate Neighborhood Association meeting, held virtually, to present their proposal. A summary of the comments provided at the neighborhood association meeting (Attachment B). The applicant has continued to engage with the neighborhood association as their proposal has evolved.

Neighborhood Association Comment

The City provided a notice of filing and request for comments to the South Gateway Neighborhood Association, Morningside Neighborhood Association and Southeast Mill Creek Association (SEMCA) pursuant to SRC 300.620(b)(2)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property.

Comments were received from the South Gateway Neighborhood Association at the City Council meeting indicating opposition to the proposal. South Gateway indicated Mixed Use (MU-I or MU-II) would be better suited for the subject property. South Gateway and four surrounding property owners indicate that traffic is a concern due to the new Costco building being constructed and that the addition of a drive-thru to the area could be detrimental to the traffic system. The following issues were raised at the previous hearing:

Traffic Issues:

Staff Response: The applicant has submitted updated proposal and Transportation Planning Rule analysis. The City Traffic Engineer has reviewed the updated information and supports the proposal as conditioned below with a limit to a total of 25,348 total trips per day.

Use Restrictions:

Staff Response: The applicant has changed their request to MU-II and MU-III, which addresses many of South Gateway Neighborhood Association issues with particular uses within the CR zone. The uses identified in SGNA's comments at City Council are listed below and allowed under the CR Zone. SGNAs testimony to City Council can be viewed here. The presentation they gave to City Council outlining their comments is attached (Attachment C) . Many of the uses are greatly restricted in both Mixed-Use zones. The allowed uses are

addressed below:

- Motor Vehicle Sales and Services
 - MU-II, not allowed
 - MU-III, Conditional Use Permit
- Recreation, Entertainment and Cultural Services;
 - MU-II, Firing ranges are not permitted, Major Events not permitted. Uses such as movie theaters, open space and community services permitted.
 - MU-III, allows for more indoor commercial entertainment uses and some outdoor entertainment uses (some with Conditional use permit), Major Events are a conditional use permit.
- Construction Services, Repair, Maintenance and industrial service:
 - MU-II, General repair services allowed, no other Construction Services, Repair, Maintenance and industrial services are allowed.
 - MU-III, allows landscape, lawn and garden services and tree and shrub services any other construction services is a Conditional Use Permit or not allowed.
- Wholesaling Sales and Distribution:
 - MU-II, none allowed
 - MU-III, Distribution centers for online and mail order sales is a Conditional Use Permit, all other uses are not allowed.
- Manufacturing;
 - MU-II, allowed in small scale operations (5,000 sq. ft) with retail sales.
 - MU-III, allows small scale operations (10,000 sq. ft) with retail sales. Additionally manufacturing is limited to 10,000 square feet for food services contractors, costume jewelry, sundries and notions, and signs with a Conditional Use Permit.
- Transportation Facilities;
 - MU-II, allows Transit stops
 - MU-III, allows Passenger ground transportation facilities
- Utilities;
 - MU-II, allows basic utilities and wireless communication
 - MU-III, allows basic utilities and wireless communication. Water Storage is a Conditional Use Permit.
- Farming, Forestry and Animal Services.
 - MU-II, allows Animal Services, such as Veterinarians.
 - MU-III, allows for agriculture uses, forestry uses (but not Marijuana production) and Animal Services.

The use tables for MU-II and MU-III are attached for reference (Attachment E).

Commercial Retail vs. Mixed Use Zone:

Staff Response: The applicant has modified their request to include Mixed-Use II and Mixed-Use III zoning. Since there is no longer a request for Commercial Retail this concern is addressed.

Drive thru uses:

Staff Response: The Planning Commission's original decision limits the property to no more than three drive thru uses on the site. That has been reviewed in the updated traffic analysis and found to be acceptable. The MU-II zone prohibits uses developed with a drive thru. The condition limiting drive thrus to no more than three in the MU-III portion of the property will ensure that these uses do not negatively affect the transportation system. Additionally, the MU-III zone has design requirements for drive thrus that are intended to reduce the visibility and pedestrian, car conflicts.

Public Comment

Notice was also provided, pursuant to SRC 300.620(b)(2)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. Posted notice signs for the public hearing were placed visible from each street frontage of the subject property and remained in place through the day of the public hearing as required by SRC 300.620(b)(3).

There were four comments submitted prior to the City Council Hearing, which indicated concerns with traffic. Traffic is addressed above under the Neighborhood Association comments. Since notice was sent for Public Hearing on October 4, 2022, no public comments have been received.

Homeowners Association

The subject property is not located within a Homeowners Association.

Oregon Department of Land Conservation and Development (DLCD) Notice

State law (ORS 197.610) and SRC 300.602(b)(1) require the City to provide the Oregon Department of Land Conservation and Development (DLCD) a minimum 35-day notice when an applicant or the City proposes an amendment to an acknowledged Comprehensive Plan or land use regulation or to adopt a new land use regulation. The City sent notice of this proposal to DLCD on September 24, 2021.

Site Plan

A site plan is not required as part of a Comprehensive Plan Map Amendment/Zone Change application. The applicant submitted a conceptual plan indicating commercial retail, lodging, mixed use, office and residential uses on the property. Transportation Planning Rule analysis submittal includes preliminary site plans with a shopping center contained in several areas and uses on the subject property. Although the site plan illustrates how the site could be developed under the proposed Comprehensive Plan Map designation and zoning, the applicant has not requested development approval as part of the subject application.

Applicant Submittal Information:

Requests for Minor Comprehensive Plan Changes and zone changes must include a statement addressing each applicable approval criterion and standard. The applicant submitted such statements and proof, which are included in their entirety in the record. 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.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR COMPREHENSIVE PLAN MAP AMENDMENT

6. Minor Comprehensive Plan Map Amendment Approval Criteria

Salem Revised Code (SRC) 64.025(e)(2) establishes the approval criteria for Comprehensive Plan Map amendments. In order to approve a quasi-judicial Plan Map amendment request, the decision-making authority shall make findings of fact based on evidence provided by the applicant that demonstrates satisfaction of all of the applicable criteria. The applicable criteria are shown below in **bold** print. Following each criterion is a finding relative to the amendment requested.

SRC 64.025(e)(2)(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 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 the 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.****

Staff Response: Since the annexation of the subject property, the properties in the surrounding area have undergone significant economic change. The property west of the subject property was re-zoned to CR (Retail Commercial) and CO (Commercial Office). The property north of the subject property was rezoned to CR in March of 2016. The property south of the subject property has been rezoned to RM-2 (Multiple Family Residential) and developed as an assisted living facility. In addition, east of Interstate 5

properties have developed to accommodate various commercial uses including Oregon State Police Headquarters, Parks and Recreation Facility, Amazon Distribution and other facilities that make Kuebler an important commercial corridor.

The Mixed Use plan designation is equally or better suited for the subject property than the Developing Residential designation for the following reasons.

Mixed-use centers and corridors are intended to be walkable areas that are well connected to adjacent residential areas by the pedestrian and bicycle network. The location adjacent to existing residential development, I-5, and possibly being developed into a retail center would promote Salem as a regional commercial center as well as provide the area with a broader range of employment uses. The mixed use development is likely to provide the opportunity for multi-family, commercial offices, including medical offices, which provide higher than average wage jobs as well as retail services and sales jobs. (Salem Economic Opportunities Analysis p. 28 for wage impact analysis).

The proposed mixed-use designation allows the property to be developed with a variety of uses, including general office, retail sales and services and multi-family residential. As evidenced in the 2014 Economic Opportunities Analysis (EOA) and 2014 Housing Needs Analysis (HNA), the City has a deficit of available commercial land. The proposed mixed-use designation is appropriate based on the change in social and economic conditions in the area, and the proposed mixed-use designation is equally or better suited to meet the City's future land use needs.

The proposal is also justified based on subsection (ii), Alteration in Circumstances. Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate and subsection (iii), the proposed designation is equally or better suited for the property than the existing designation. The applicant does not assert that a mistake has been made in the application of the Developing Residential designation to the subject property. Staff concurs with the applicant's characterization of the Developing Residential designation as appropriate for holding areas for future development not currently served by urban levels of infrastructure. The Urban Growth Preliminary Declaration issued for the subject property (UGA09-08) specified the infrastructure improvements needed to develop the subject property as a 26.44-acre shopping center. The Urban Growth Preliminary Declaration has expired, and the applicant would need to re-apply to determine current infrastructure improvements needed to develop the property. The subject property provides a site for higher intensity retail development that would maximize investment in public services in the vicinity, especially the existing arterial street network and future master-planned utilities.

There are several Comprehensive Plan policies, which are addressed below, addressing location of commercial properties such as being located on major arterials, creating complete neighborhoods, including clustering of residential and commercial uses. Creating complete neighborhoods is one way to reduce reducing vehicle trips that contribute to climate change, as discussed in the City's draft Climate Action Plan.

The Planning Commission found that physical factors, such as topography or other physical features of the subject property and abutting the I-5 interchange would make the property incompatible for residential development.

In 2015, the City completed an Economic Opportunities Analysis (EOA) for areas within the Salem Urban Growth Boundary for the years 2015 to 2035. The study indicated a shortage of approximately 100 gross acres of retail commercial land within the Salem UGB. Conversely, the accompanying Housing Needs Analysis (HNA) indicated a large surplus of available land for single family detached housing, primarily consisting of lands within the “Single Family Residential” and “Developing Residential” designations.

Several factors make the subject property especially well-suited for the Mixed Use designation. The subject property has direct access to a collector (27th Avenue SE), local road (Boone Road SE), frontage on a designated parkway (Kuebler Boulevard SE), and close proximity to a major freeway interchange at Kuebler Boulevard and I-5. The site is located across 27th Avenue from a 32-acre site in which a Plan Map and zone change from Developing Residential with RA zoning to a Commercial designation with CR zoning was approved in 2006 (CPC-ZC06-06) and across Kuebler Boulevard from a 31.96-acre site in which also had a Plan Map and zone change from Developing Residential with RA zoning to a Commercial designation with CR zoning in 2016.

The higher classification streets in the vicinity provide sufficient access for Mixed Use uses, particularly those with a regional customer base. Further, the majority of surplus developable acreage identified in the HNA is not benefitted by the confluence of freeway, parkway, and arterial network access that help make the subject property especially well-suited to commercial development. Considering these factors, the subject property is equally or better suited for the proposed designation than its current designation.

The proposal meets this criterion.

SRC 64.025(e)(2)(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;

Staff Response: The subject property is located outside of the City’s Urban Service Area (USA). However, the subject property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed Mixed Use designation.

Natural gas, sanitary services, water, and power lines are located within Boone Road SE. Sanitary, power, and natural gas service lines are also available along 27th Street SE. Storm drain infrastructure is available in Kuebler Blvd.

There is an existing 24” public sanitary line located in 27th Avenue SE with manholes approximately mid-way along the front and at the intersection of Kuebler Blvd. that are deep enough to service this property. There is also an eight (8”) inch PVC sewer main is located within Boone Road SE east of the Boone Road SE and 27th Avenue SE intersection; however due to topographic constraints it will not be able to service the Subject Property.

There is an existing 24” and 30” S2 water line in Boone Road SE. The Subject Property is within two water service levels: S-1 and S-2. There are no facilities available to serve the S-1 water service level at this time. However, a twenty-four (24”) inch S-2 ductile iron water main

is located in Boone Road SE and a thirty (30") inch S-2 ductile iron water main is located in Boone Road SE. Applicant could connect to the line with a temporary connection agreement with City of Salem, as no S-1 service is available.

There is an overhead power, cable, and telecom line along the north side of Boone Road SE and along the east side of 27th Avenue there is an existing gas main in Boone Road SE along the north side of the road and along 27th Avenue on the east side of the road.

The majority of the Subject Property currently drains to the center of the property where it and then flows north to the existing drainage ditch that flows east to an existing 36" storm drain that crosses north under Kuebler Blvd. The eastern fifth of the project flows east to the I-5 ditches and culverts.

The applicant will be required to apply for an Urban Growth Preliminary Declaration permit prior to development. The permit will identify those public facilities that must be constructed in order to fully serve any proposed development on the subject property consistent with the City's adopted Master Plans and Area Facilities Plans. The existing streets, water, sewer, and storm water facilities are available to serve the subject property. Site-specific infrastructure requirements will be addressed in the Site Plan Review process in SRC Chapter 220.

The adequacy of the City's transportation facilities to serve the uses allowed under the requested plan designation and zoning is extensively discussed in the findings below related to Goal 12 and compliance with the Comprehensive Plan and Salem Transportation System Plan. The Planning Commission finds that those findings and the evidence the findings rely upon, demonstrate that with the transportation improvements proposed by the Applicant, which are imposed as conditions of approval for the zone change application, the proposed uses are capable of being served by the City's transportation system.

The Planning Commission finds that the proposal meets this criterion.

SRC 64.025(e)(2)(C): The proposed plan map designation provides for the logical urbanization of land;

Staff Response: The development pattern in the vicinity, particularly this segment of the Kuebler corridor, has transitioned over the past several years, shifting from rural residential uses to uses that are primarily commercial in nature. The proposed plan map designation is consistent with the current development pattern and will provide for the logical urbanization of land.

The immediate vicinity of the subject property is in flux with commercial development to the west (Costco), multi-family and single-family developments to the south, commercially zoned property to the north along with a 177-lot single family development and possible Multi-Family development to the northwest of the property. The subject property sits near the center of a large area of future commercial and residential (multiple family) development. A Mixed-Use Plan Map designations would be consistent with the surrounding area of Commercial designations, and the mixture of land uses that have developed according to that designation.

Staff recognizes that there is some contention in the record as to what the appropriate zoning for the property should be or whether certain types of commercial uses should not be allowed on the property. SGNA indicates that it prefers Mixed Use Zoning. The applicant updated the proposal to include MU-II (Mixed Use) and MU-III (Mixed Use) zoning. Staff has recommended conditions of approval to address the remaining SGNA concerns related to building size and amount of drive-throughs.

SRC 64.025(e)(2)(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

Staff Response: An updated Comprehensive Plan was adopted by the City in July of 2022. However, this application is still subject to the plans and standards that were in place when the application was submitted. The applicable Goals and Policies of the Comprehensive Plan are addressed as follows:

Salem Urban Area Goals and Policies, B. General Development Goal (Salem Comprehensive Policies Plan):

To ensure that future decisions concerning the use of land within the Salem urban area are consistent with State Land Use Goals.

Finding: The approval standards for both the comprehensive plan change and zone change applications require a demonstration of compliance with the Statewide Planning Goals. Those findings are included in these findings and demonstrate that the proposal is consistent with the Statewide Planning Goals.

The proposed plan designation and zone change, and the development that will be permitted consistent with SRC development standards will also be consistent with the policies under this Comprehensive Plan goal that apply to such approvals. This includes, but is not limited to, the policies that promote citizen involvement, economic growth, carrying capacity, optimal use of the land, street improvements, development compatibility, and lighting. Each of these policies is implemented by provisions of the zoning code, which will apply to all development permitted under the new plan designation and zoning. Furthermore, no participant in this proceeding has contended that the proposal or development that would be permitted under the Mixed Use Plan designations and MU-II and MU-III zones, would be inconsistent with any of the policies under this Comprehensive Plan Goal.

Staff recommends the Planning Commission finds that the applications are consistent with this Comprehensive Plan Goal and its implementing policies.

Salem Urban Area Goals and Policies, Growth Management Goal (Page 28, Salem Comprehensive Policies Plan):

To manage the growth in the Salem urban area through cooperative efforts of the City of Salem and Marion and Polk Counties, to ensure the quality of life of present and future residents of the area, and to contain urban development to preserve adjacent farm land.

Finding: The public facilities and service needs for the subject property would be provided at the time of development of the site. All public services and utilities are available in the vicinity of the subject property including water, sewer, storm drainage, streets, sidewalks, fire and police protection, electricity, telecommunications, and solid waste disposal. The proposed Comprehensive Plan Map amendment with concurrent Zone Change is consistent with these policies. Master-planned facilities necessary to support commercial development on the subject property will be evaluated through a Urban Growth Preliminary Declaration.

Salem Urban Area Goals and Policies, E. Residential Development Goal (Salem Comprehensive Policies Plan):

To promote a variety of housing opportunities for all income levels and an adequate supply of developable land to support such housing.

Staff Response: Although this proposal removes land from the residential lands inventory, evidence in the record demonstrates that there is a surplus of residential lands within the City's UGB. For this reason, the proposal will not result in an inadequate supply of developable land to support the City's housing needs. The proposal promotes a variety of housing opportunities and an adequate supply of developable residential land, by helping to make this south part of the City desirable for such residential uses by ensuring that there are commercial retail opportunities in proximity to residential uses and residentially developing areas, thus contributing to more complete communities, with fewer needs for vehicular trips to such opportunities if they are located further away.

Not only are commercial uses complementary to residential uses, the location of this designation and zoning furthers the City's policies aimed at minimizing vehicle travel distances and encouraging non-vehicular access to such services by locating residential areas and commercial services in closer proximity than has historically occurred.

The proposal is consistent with this Comprehensive Plan Goal and its implementing policies.

Salem Urban Area Goals and Policies, F. Mixed-Use Development Goal (Salem Comprehensive Policies Plan):

To provide a mixture of complementary land uses that may include housing, retail, offices, services, industrial and civic uses, to create economic and social vitality.

Findings: The Mixed Use plan designations and the requested zoning allows a broad range of uses on the subject property. All proposed zones allow for mixed use development of the site and the Applicant has indicated a desire for that to occur if at all possible.

Staff recommends the Planning Commission imposed a condition of approval, to limit the subject property to three drive-through facilities on the subject property.

Salem Urban Area Goals and Policies, Commercial Development Goal (Page 35, Salem Comprehensive Policies Plan):

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

Finding: The proposed mixed-use designations of the subject property would allow development of a mixed-use development or shopping center serving the southeastern portion of the Marion-Polk County metropolitan area. Existing commercial concentrations elsewhere in the region, such as downtown Salem, the Commercial Street SE corridor, and Lancaster Drive are a considerable distance from existing and future development in the southeastern portion of the metropolitan area. Transportation access to the subject property would promote use of a site within the Salem urban area as the commercial center for underserved areas inside and outside of the City limits.

Policy G.4. Community shopping and service facilities shall be located adjacent to major arterials and shall provide adequate parking and service areas. Land use regulations shall include provisions for siting and development which discourage major customer traffic from outside the immediate neighborhoods from filtering through residential streets.

Finding: The subject property is well-served by the street network in the vicinity, which includes collectors, Kuebler Boulevard, and the adjacent I-5 freeway interchange. As surrounding properties develop, the existing network of higher-classification streets will allow regional traffic to access the site without filtering through neighborhood residential streets.

Policy G.5. Unless the existing development pattern along arterials and collectors commits an area to strip development, new commercial development shall be clustered and located to provide convenience goods and services for neighborhood residents or a wide variety of goods and services for a market area of several neighborhoods.

Finding: The proposed Mixed-Use designations of the site would facilitate clustered retail development at one quadrant of the I-5/Kuebler Boulevard interchange, allowing a wide variety of goods and services to be provided in a location where existing transportation facilities provide access from several different neighborhoods.

Salem Urban Area Goals and Policies, J. Transportation Goal (Salem Comprehensive Policies Plan):

To provide a balanced, multimodal transportation system for the Salem Urban Area that supports the safe and efficient movement of goods and people.

Findings: The City has developed the Salem Transportation System Plan (STSP), which establishes transportation objectives and policies and provides a hierarchical system of streets and highways to provide optimal mobility for all travel modes throughout the City's urban area. Kuebler Boulevard SE abuts the Subject Property to the north and is

classified as a Parkway by the STSP street classification system. Kuebler Boulevard SE is interconnected to a network of streets. 27th Avenue abuts the Subject Property to the west and is designated a collector on the STSP street classification map. Boone Road SE abuts the Subject Property to the south and is also a designated collector street. Battle Creek is a designated minor arterial that provides north south connectivity to the site, via Boone Road SE. The Subject Property is well connected to the existing public street system, thereby providing connectivity with the surrounding neighborhood as well as the broader Salem Community. The subject property also is connected to the City's public transportation network, as evidenced by the Cherriots comments in the record that explains that it has discussed with the Applicant placing two public transportation stops to serve the subject property and the Applicant has agreed to do so. Exactly whether there will be one bus stop or two and the precise location of such stop(s) will be decided in the subsequent site plan review application.

The Applicant also recognizes that the development permitted under the proposal could adversely impact the City's transportation system. As discussed under Goal 12 below and referred to elsewhere in these findings, the Applicant has proposed conditions of approval that will mitigate the additional impacts to the transportation system that would result from the proposed plan designation and zoning when compared to existing allowed development. Staff recommends the Planning Commission imposes those conditions of approval as part of this decision.

The proposal is consistent with this Comprehensive Plan goal.

Multimodal Transportation System

4. The transportation system for the Salem Urban area shall consist of an integrated network of facilities and services for a variety of motorized and nonmotorized travel modes.

Connectivity and Circulation

5. The vehicle, transit, bicycle, and pedestrian circulation systems shall be designed to connect major population and employment centers in the Salem Urban Area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

Findings: The evidence in the record establishes that the Subject Property can be served by transit, pedestrian sidewalks and bike lanes, all of which encourage the use of alternative modes of transportation. Additionally, the proposed zoning will result in development that can offer an incentive for residents of the neighborhood to walk, bike and use public transport to reach a vibrant commercial hub that can provide for a variety of their needs in this otherwise underserved area of the City.

The proposal is consistent with the above policies.

Supportive of Land Use Plan Designations and Development Patterns

6. The provision of facilities and services shall reflect and support land use designations and development patterns as identified in the Salem Area Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand, residential densities, retail, and employment centers.

7. Local governments shall encourage the expansion of transit services throughout and beyond the Salem Urban Area, especially to areas of increased residential densities, major commercial concentrations, and large institutional and employment centers.

Growth Management

8. The construction of transportation facilities shall be timed to coincide with community needs, and shall be implemented in such a way as to minimize impacts on existing development.

9. Improvements to the transportation system, in addition to those in or abutting a development, may be required as a condition of approval of subdivisions and other intensifications of land use.

Findings: As discussed above, the subject property is proximate to collector streets, a minor arterial, and a parkway. The Applicant proposes not only to utilize this existing street network, but to also enhance it, through improvements, in order to accommodate the additional traffic that will flow from the proposed Mixed-Use designations and Mixed Use-II and Mixed Use-III zonings. Such mitigation will minimize the impacts on existing development that would otherwise result from the proposal. The mitigation is imposed in the conditions of approval for the zone change application. The proposal is consistent with the above plan policies regarding transportation facilities. The Applicant's evidence that with the proposed mitigation imposed by conditions of approval that this Decision requires, the affected area transportation system will function no worse with the property being Mixed-Use designated and MU-II and MU-III zoned land, than if it stayed RA although wait times at near-by signal lights will increase substantially. Its approval as outlined in this decision, meets these Plan policies because approving the proposal as here, responds to anticipated travel demands, coincides with undisputed community needs for more retail opportunities in this part of the city and the Planning Commission imposes conditions of approval to ensure that the affected transportation system functions no worse under the proposal than it would without it.

Policy 6 speaks of facilities and services based, in part, on "future travel demand" and retail services, not just present demand. The wording expressly envisions that future demand may differ from what presently exists and that transportation facilities should respond accordingly, limited by geography and topography of the facility in question. Other policies (7-9) encourage the expansion of transportation facilities and services to reflect and coincide with evolving community needs.

The proposal is estimated to generate 25,348 total vehicle trips. The Applicant's traffic analyses make clear, over half of the approximate number of trips estimated per day are either trips between land uses on the subject property and the Costco shopping center or

pass-by trips (which are trips that are already on the road that divert to the site before continuing to their primary destination).

Finding: The applicable Statewide Planning Goals are addressed as follows:

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

Staff Response: On June 10, 2021, the applicant’s representative attended the Southeast Salem Neighborhood Association Meeting, held virtually, to present their proposal. Several public hearing notices were mailed to the affected property owners, all property owners within 250 feet of the subject property, to the South Gateway Neighborhood Association and to the adjacent Southeast Mill Creek Association and Morningside Neighborhood Association. The applicant has continued to engage with the neighborhood association as their proposal has evolved. Notice of each public hearing has been provided to surrounding property owners and tenants and posted the subject property prior to each public hearing. This satisfies Citizen Involvement described in Goal 1.

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

Staff Response: The City has complied with the Goal requirements for establishing and maintaining a land use planning process. The Oregon Land Conservation and Development Commission have acknowledged the Salem Area Comprehensive Plan to be in compliance with the Statewide Planning Goals.

Statewide Planning Goal 3 – Agricultural Lands and Goal 4 – Forest Lands:

Staff Response: The proposed plan amendment does not affect any lands designated agricultural lands or forest lands or their inventories. Consequently, Goal 3 and Goal 4 are not invoked by the application.

The proposal is consistent with Goals 3 and 4.

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

Staff Response: There are possible scenic, historic, or cultural resources on the subject property. Prior to development, the property owner would need to consult with the City Historic Preservation Program Manager. According to the Salem Keizer Local Wetland Inventory (LWI) there are wetlands mapped on the subject property. The applicant has provided a wetland delineation as part of their application. The City’s wetland ordinance, SRC Chapter, requires notice and permitting through the Department of State Lands (DSL).

The application will be reviewed for compliance with the City’s tree preservation ordinance

and any applicable wetland standards at the time of development. Staff finds that the proposal is consistent with Goal 5.

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

Staff Response: Goal 6 is largely a planning directive to local governments and, as such, does not provide specific standards applicable to site-specific plan designation decisions. The application narrative notes that the subject property lies within the city limits, where an urban level of development is intended to occur in both scale and density. The application narrative also notes the range of public facilities and services designed to protect air, water and resource quality within the city, which this decision finds are both available and adequate.

Staff recommends the Planning Commission concurs with the applicant that the mixed use zoning and uses that will flow from the plan designation change will reasonably help reduce impacts to air quality through its proximity to near-by residential lands and access to public transportation, which will reduce the length of or need for vehicle motor trips. Staff recommends the Planning Commission also finds the application has demonstrated that development under the proposed plan designation will not adversely impact natural resources because there are no significant natural resources on the subject property.

The proposal is consistent with Goal 6.

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

Staff Response: As the application narrative explains, the City has complied with Goal 7 by adopting specific policies and development standards that protect against flood hazards, potential landslides and other natural hazards. The implementing measures are found in the acknowledged SRC under Chapters 809 and 601 and are imposed at the time a development application is reviewed.

The City's adopted landslide hazard susceptibility maps show the subject property is mapped within areas that have 2 to 3 landslide hazard susceptibility points. Given that 3 activity points are associated with commercial building permits and the City's landslide hazard ordinance, SRC Chapter 810, requires any development proposal with a cumulative total of 5 to 8 points submit a geologic assessment in conjunction with the application, the City's implementing measures will be applied at the time a development proposal is submitted. Given the moderate landslide hazard susceptibility classification (5 to 8 points) for the subject property is classified and that the property's point rating is at the lower end of that scale, Staff recommends the Planning Commission concludes that it is feasible that a proposed project that satisfies the requirements of the applicable implementing measures can be designed and approved. Nothing in the record, nonetheless demonstrates, that the site cannot be safely developed, whether with commercial or residential uses.

There are no other identified natural disaster or hazards on the subject property.

Staff recommends the Planning Commission finds that the proposal is consistent with Goal 7.

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

Staff Response: The Subject Property is not within a designated or identified open space area and does not contain any structures subject to historic review. Furthermore, the property does not contain any wildlife habitat, groundwater resources, or natural areas other than the wetlands addressed above. Therefore, Goal 8 is not applicable to this proposal.

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

Staff Response: The City's Comprehensive Plan contains commercial and economic development policies pertaining to the identification and protection of employment lands. This proposal to amend the comprehensive plan map from Developing Residential to Commercial will increase the City's employment lands, as the change will allow for the development of commercial uses on the Subject Property. The proposal will provide a site for a community level retail center. This consolidated land use proposal increases economic opportunities for City residents. As such, this proposal is consistent with Goal 9's requirement to provide a variety of economic opportunities for City residents, including commercial opportunities. (OAR 660-009-0000).

The proposed comprehensive plan and zoning map amendment will convert approximately 24.66 acres of vacant residentially zoned land to a mixed use designation. Consistent with the City's obligations to provide economic opportunities under Goal 9, per OAR 660-009-0015, an Economic Opportunity Analysis (EOA) was conducted by ECONorthwest and adopted by City Council in October 2014. Consistent with economic development protections of Goal 9 and the objectives of understanding the opportunities for the next 20 years, the report compared the supply of suitable buildable commercial land (298 acres) to the projected demand (569 acres) and concluded that there is a deficiency of 271 acres of commercial land to meet the 20-year growth demand. The EOA further concluded that roughly 40 percent of the commercial land deficiency, or approximately 100 acres, are needed for retail services, as detailed by the "Land Sufficiency" section in the EOA (pages 27-28).

As a residentially-designated property, the site's economic development potential is currently limited as compared to regional shopping facilities, community and neighborhood shopping and service facilities, and other uses envisioned by the "Mixed-Use" SACP designation and supported by the accessibility and visibility of the site. The proposed change of designation to "Mixed-Use" will increase the number of permitted uses at the site and better takes into account the location of the subject property, thereby open up additional opportunities for economic development, consistent with the intent of the goal. The proposal meets the requirements of Goal 9.

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

Staff Response: Oregon Statewide Planning Goal 10 requires the City to allocate adequate

amounts and types of land to accommodate the needed housing units for all incomes. The City's Housing Needs Analysis (HNA), which was adopted in 2022, is a support document that serves as a policy guide for the Comprehensive Plan. The HNA identified a projected deficit of multi-family land in Salem's portion of the UGB through 2035; the City redesignated land for multifamily housing, incentivizing infill housing and redevelopment, and promoting higher-density housing development to address the need and fulfill the HNA requirements. The HNA indicated that there is a surplus of land zoned single family. Removing the subject property from the supply of land zoned for single family will not negatively impact that City's ability to land for residential uses. Multiple family housing is not permitted in the existing RA zone and is listed as a permitted use MU-II and MU-III zoning requested by the applicant.

The City has used the HNA to inform the development of goals and policies related to housing and mixed-use development. Since the HNA was completed, the City has worked to remove barriers to multifamily housing development, allowing accessory dwelling units and middle housing, and implementing tools to increase redevelopment. The City continues to work to address housing affordability through regulatory improvements and financial incentives.

Based on the current available supply of land for residential development shown in the Comprehensive Plan and Housing Needs Analysis, the proposal would not have an impact on the ability of the City to provide for its projected housing needs, even if no new housing units were added in future development of the site. Therefore, the proposal to change the designation of the subject property to Commercial would not have an impact on the ability of the City to provide for its projected housing needs. The proposal meets the requirements of Goal 10.

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

Staff Response: The City utilizes an Urban Growth Management Program to ensure necessary public facilities and services are available to serve new development. As part of the program, the City has designated an USA boundary delineating the area in the City where all necessary public facilities have either been installed or are fully committed in the adopted Capital Improvement Plan. The Subject Property is located outside the boundary of the USA. However, public services are readily available, as fully described in above. Therefore, all public facilities and services are readily available to serve the Subject Property.

The subject property is capable of being served through extension of public facilities as specified in existing infrastructure master plans. Future development will require an Urban Growth Preliminary Declaration to address linking and boundary facilities required to serve subject property under the standards and requirements of SRC Chapter 200.

The applicant submitted a transportation study that is required to address the Transportation Planning Rule (OAR 660-012-0060). The applicant's transportation study identifies seven separate transportation improvements to mitigate the estimated 12,010 new daily trips to the transportation system.

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

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

The applicant submitted an updated transportation study that is required to address the Transportation Planning Rule (OAR 660-012-0060). The analysis demonstrates that the proposed changes to the Comprehensive Plan Map designation and zoning will have a significant impact on the transportation system as defined by OAR 660-012-0060 and, as such, must mitigate the impacts of the amendment to avoid further degradation to the performance of the facility as specified in the conditions of approval. The analysis must also meet the requirements of City of Salem, Administrative Rules Chapter 109, Division 6, Street PWDS.

Pursuant to PWDS Section 6.33(f)(3), “Traffic counts that are older than two years; taken during holiday weeks; or taken during construction shall not be used.” The applicant provided new traffic counts that are newer than 2 years old and include traffic from the recently opened Costco site. They also conducted Saturday counts to consider peak commercial traffic in the area. The applicant has met this criterion.

SRC 803.015(c), PWDS 6.33(i), and OAR 660-012-0060 all require mitigation to restore the operations to a level of service not exceeding pre-development conditions for each applicable horizon year from the proposed development.

The applicant’s transportation study identifies six separate transportation improvements to mitigate the estimated 25,348 total new daily trips to the transportation system. Two of the studied intersections fall under the jurisdiction of the Oregon Department of Transportation (ODOT), I-5 southbound ramps at Kuebler Boulevard and I-5 northbound ramps at Kuebler Boulevard. ODOT is not requiring any mitigation for their two intersections.

The applicant’s TIA has identified five City of Salem intersections that the proposed zone change will have significant traffic impacts under the 2037 future scenario traffic analysis.

The applicant is proposed to fully fund and construct improvements at those five intersections to mitigate the traffic impacts back to pre-development conditions. Those intersections are as follows'

- Kuebler Boulevard/Commercial Street:
 - o implement signal timing improvements and operations.
- Kuebler Boulevard/Battle Creek Road:
 - o Install dual 250-foot-long southbound left turn lanes.
- Kuebler Boulevard/27th Avenue:
 - o Install a second northbound right turn lane to the round-about; and
 - o Install a second northbound left turn lane to the round-about;
 - o Extend (by restriping) the dual westbound left turn lanes to 650 feet in length.
- Kuebler Boulevard/36th Avenue:
 - o Install a separate 250-foot-long westbound right turn lane, plus transitions.
- Site Access on 27th Avenue.
 - o Add a second westbound right-turn lane.

The applicant has changed the proposal to MU-II (8.06 Acres) and MU-III (16.58 Acres) to help mitigate traffic impacts to the site. The change in zoning, coupled with the restriction on drive thrus in the MU-III portion of the property, reduces the amount of peak traffic that will be on the road at the same time as the adjacent Costco site traffic. By adding MU-II and MU-III zoning to the site will spread out the traffic volumes over different times of the day.

The revised analysis submitted by the applicant is deemed acceptable because it now meets the requirements identified in the PWDS and adequately addresses the mitigation needed to avoid further degradation of the transportation facilities in the vicinity of the proposed zone change. Staff supports the proposed changes to the existing Comprehensive Plan Map designation and zoning.

Statewide Planning Goal 13 – Energy Conservation: *To conserve energy.*

Staff Response: The Planning Commission notes that Goal 13 is another of the goals focused on directives to local governments to do land use planning and provides little of anything regarding standards for specific development other than what the adopted plan and land use regulations should specify. In other words, Goal 13 is implemented through local government land use planning and the application of the plan and code.

That said, the application narrative discusses the central nature of the subject property, which will provide bikeable and walkable commercial shopping and dining opportunities for the near-by residential development. This will reduce energy consumption by motor vehicles. The application also notes that the location of the site along a major bus route will allow for alternative modes of transportation to development on the property.

Such pedestrian and alternative transportation opportunities will help conserve and promote energy efficiency consistent with Goal 13.

Statewide Planning Goal 14 – Urbanization: *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban*

employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Staff Response: The subject property was annexed into the City of Salem in 2011 and is located within the Urban Growth Boundary (UGB). The proposal does not include extension of services to properties outside of the UGB. The proposed Comprehensive Plan and Zone Change is consistent with an orderly and efficient transition from rural to urban use for incorporated land adjacent to major transportation facilities. The proposal complies with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway; Goal 16 – Estuarine Resources; Goal 17 – Coastal Shorelands; Goal 18 – Beaches and Dunes; and Goal 19 – Ocean Resources:

Staff Response: Each of the above are geographic specific goals. The Subject Property is not within the Willamette River Greenway, or in an estuary or coastal area. Consequently, Goals 15, 16, 17, 18 and 19 do not impose any requirements to this proposal.

SRC 64.025(e)(2)(E): The amendment is in the public interest and would be of general benefit.

Staff Response: The proposed plan designation change and zone change satisfies an identified need for commercial retail employment-related uses, housing needs and proposes to meet that need through changing land designations and zoning for which City studies have demonstrated that the City has an excess of land. The proposal is also consistent with the City's planning program and the City Council's expressed intent to establish commercial services in close proximity to residential neighborhoods. Given the subject property's location along major access routes to the surrounding residential areas and accessibility by alternative means of transportation, the proposal is in the public interest and would be of general benefit to the surrounding neighborhoods and to the City generally.

FINDINGS ADDRESSING APPLICABLE SALEM REVISED CODE APPROVAL CRITERIA FOR QUASI-JUDICIAL ZONE CHANGE

7. Quasi-Judicial Zone Change Approval Criteria

The following analysis addresses the proposed zone change for the subject property from RA (Residential Agriculture) to MU-II (Mixed Use-II) and MU-III (Mixed Use-III).

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.

SRC 265.005(e)(1):

(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**
- (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.**
- (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 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.**

Staff Response: The request satisfies (ii) and (iii); the proposed zone change is within an area of economic change which makes the proposed zone more compatible with the vicinity development pattern and is equally or better suited for the property than the existing zone. As noted in the applicant's written statement, several properties in the area have been zoned for commercial use or multi-family. The vicinity development pattern has surrounded the subject property leaving an island of residential zoned property. The City has recognized this location as being an appropriate site for commercial development through its adoption of a CR designation for an approximately 32-acre site located at the southwest corner of the 27th Avenue SE / Kuebler Boulevard intersection and an approximately 34-acre site on the northeast corner of 27th Avenue SE / Kuebler Boulevard intersection. The transportation facilities serving the site are consistent with the physical characteristics necessary to support uses allowed in the MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones.

It must be noted that a zone change is not an approval of a specific development proposal, but instead is approval of a permanent change in a property's zoning district. The proposed Plan Map amendment would change of the land use designation of the subject properties to "Mixed Use," which can be implemented by multiple zoning districts contained in the Unified Development Code. In evaluating the proposed zone change, the suitability of the specific zone proposed by the applicant must be considered. For this reason, an additional measure of the suitability of this request is consideration of the nature of the potential future uses allowed by the MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones when compared to the uses allowed under the existing RA zone, and the character of the existing land uses in the neighborhood. As stated previously, the subject property is located within an area largely characterized by holding uses consistent with the "Development Residential" designation.

At previous the hearings there was argument that zone designations, specifically CO (Commercial Office), MU-II (Mixed Use) zones would, in fact, be a better zone for the property given the adjacent residential uses. Similarly, participants have argued that conditions to restrict development, such as drive-through services, would make for an even better fit. The applicant has changed the proposal to MU-II (Mixed Use-II) and MU-III (Mixed Use-III) zones and additionally, staff believes the issue of fit can be addressed by the

following conditions of approval:

- Condition 1:** The MU-III portion of the subject property shall not contain more than three uses with drive throughs.
- Condition 2:** The subject property shall have no single building footprint that is constructed with more than 70,000 sq. ft, excluding parking structures.
- Condition 3:** The driveway within the development shall considered a primary street, as highlighted in the Attachment D and constructed to a minimum local street standard. Where applicable, the back of sidewalk shall be the assumed property line for setback and development standards.

The Applicant demonstrated compliance with this criterion. The standard does not require that the Applicant demonstrate that the requested zoning is the best or most ideal zoning for the property, only that it is either compatible with the vicinity's development pattern or better suited than the existing pattern. As conditioned, the MU-II and MU-III are equally or better suited for the property.

(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.

Staff Response: The proposal 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.

Staff Response: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this report, address the applicable provisions of the Salem Area Comprehensive Plan for this consolidated comprehensive plan change and zone change request. The proposal satisfies this criterion.

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

Staff Response: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(D), included earlier in this report, address applicable Statewide Planning Goals and Oregon Administrative Rules for this consolidated comprehensive plan change and zone change request. 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 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.

Staff Response: The proposed zone change is from RA (Residential Agriculture) to MU-II (Mixed Use-II) and MU-III (Mixed Use-III). No industrial Comprehensive Plan designations or zoning districts are involved in the proposal. The existing designation is not a commercial or employment designation. 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.

Staff Response: The applicant submitted a transportation study that is required to address the Transportation Planning Rule (OAR 660-012-0060). The analysis demonstrates that the proposed changes to the Comprehensive Plan Map designation and zoning will have a significant impact on the transportation system as defined by OAR 660-012-0060 and, as such, must mitigate the impacts of the amendment to avoid further degradation to the performance of the facility as specified in the conditions of approval. The analysis must also meet the requirements of City of Salem, Administrative Rules Chapter 109, Division 6, Street PWDS.

Pursuant to PWDS Section 6.33(f)(3), "Traffic counts that are older than two years; taken during holiday weeks; or taken during construction shall not be used." New traffic counts were taken after Costco opened and all construction completed. These new counts were used in the revised traffic study. These counts are less than two years old.

SRC 803.015(c), PWDS 6.33(i), and OAR 660-012-0060 all require mitigation to restore the operations to a level of service not exceeding pre-development conditions for each applicable horizon year from the proposed development. The analysis does recommend improvements that will mitigate the traffic impacts expected by the development pursuant to SRC 803.015(c) and PWDS 6.33(i).

Pursuant to PWDS Section 6.33(f)(3), "Traffic counts that are older than two years; taken during holiday weeks; or taken during construction shall not be used." The applicant provided new traffic counts that are newer than 2 years old and include traffic from the recently opened Costco site. They also conducted Saturday counts to consider peak commercial traffic in the area. The applicant has met this criterion.

SRC 803.015(c), PWDS 6.33(i), and OAR 660-012-0060 all require mitigation to restore the operations to a level of service not exceeding pre-development conditions for each applicable horizon year from the proposed development.

The applicant's transportation study identifies six separate transportation improvements to mitigate the estimated 12,010 new daily trips to the transportation system. Two of the studied intersections fall under the jurisdiction of the Oregon Department of Transportation

(ODOT), I-5 southbound ramps at Kuebler Boulevard and I-5 northbound ramps at Kuebler Boulevard. ODOT is not requiring any mitigation for their two intersections.

Based on the applicant's proposal, the total daily traffic from this site shall not exceed 25,348 vehicles per day (which is the sum of their proposed traffic before internal trip and pass-by reductions. To ensure the applicant's 'worst case' traffic generation is taken into account for the mitigation listed, a trip cap is applied as a condition of approval.

The applicant's TIA has identified five City of Salem intersections that the proposed zone change will have significant traffic impacts under the 2037 future scenario traffic analysis. The applicant is proposed to fully fund and construct improvements at those five intersections to mitigate the traffic impacts back to pre-development conditions. Those intersections are as follows:

- Kuebler Boulevard/Commercial Street:
 - Implement signal timing improvements and operations.
- Kuebler Boulevard/Battle Creek Road:
 - Install dual 250-foot-long southbound left turn lanes.
- Kuebler Boulevard/27th Avenue:
 - Install a second northbound right turn lane to the round-about;
 - Install a second northbound left turn lane to the round-about;
 - Extend (by restriping) the dual westbound left turn lanes to 650 feet in length.
- Kuebler Boulevard/36th Avenue:
 - Install a separate 250-foot-long westbound right turn lane, plus transitions.
- Site Access on 27th Avenue.
 - Add a second westbound right-turn lane.

The applicant has changed the proposal to MU-II (8.06 Acres) and MU-III (16.58 Acres) to help mitigate traffic impacts to the site. The change in zoning, coupled with the restriction on drive thrus in the MU-III portion of the property, reduces the amount of peak traffic that will be on the road at the same time as the adjacent Costco site traffic. By adding MU-II and MU-III zoning to the site will spread out the traffic volumes over different times of the day.

The revised analysis submitted by the applicant is deemed acceptable because it now meets the requirements identified in the PWDS and adequately addresses the mitigation needed to avoid further degradation of the transportation facilities in the vicinity of the proposed zone change. Staff supports the proposed changes to the existing Comprehensive Plan Map designation and zoning.

The applicant's transportation study identifies six separate transportation improvements, at five intersections, to mitigate the estimated 12,010 new daily trips to the transportation system. Staff recommends a trip cap be approved that matches the development and trip generation identified in the applicant's traffic study.

Condition 4: The applicant shall coordinate with Cherriots for the location of new bus stops. The applicant shall submit evidence from Cherriots that installation of bus stops as requested is completed.

Condition 5: The site shall not exceed a total trip generation of 25,348 vehicles per day.

Condition 6: Mitigation as detailed in the Transportation Planning Rule analysis shall be completed as follows:

- *Kuebler Boulevard/Commercial Street:*
 - *Implement signal timing improvements and operations.*
- *Kuebler Boulevard/Battle Creek Road:*
 - *Install dual 250-foot-long southbound left turn lanes.*
- *Kuebler Boulevard/27th Avenue:*
 - *Install a second northbound right turn lane to the round-about;*
 - *Install a second northbound left turn lane to the round-about;*
 - *Extend (by restriping) the dual westbound left turn lanes to 650 feet in length.*
- *Kuebler Boulevard/36th Avenue:*
 - *Install a separate 250-foot-long westbound right turn lane, plus transitions.*
- *Site Access on 27th Avenue.*
 - *Add a second westbound right-turn lane.*

(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.

Staff Response: Findings addressing the Comprehensive Plan Change criterion SRC 64.025(e)(2)(B), included earlier in this report, address the public facilities and services available to support commercial uses allowed on the subject property. The proposal satisfies 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.

Staff Response: Staff concurs with the applicant's statement and 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

Based on the facts and findings presented herein, staff concludes that the proposed Minor Comprehensive Plan Map Amendment and Quasi-Judicial Zone Change satisfies the applicable criteria contained under SRC 64.025(e)(2) and 265.005(e)(1) as identified in the findings above.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the facts and findings of the staff report and take the following action for the subject property located at southwest corner of the intersection of Kuebler Boulevard and I-5 (Marion County Assessor Map and Tax Lot Number: 083W12C / 2201):

- A. APPROVE** the Minor Comprehensive Plan Map Amendment from Developing Residential to Mixed Use; and

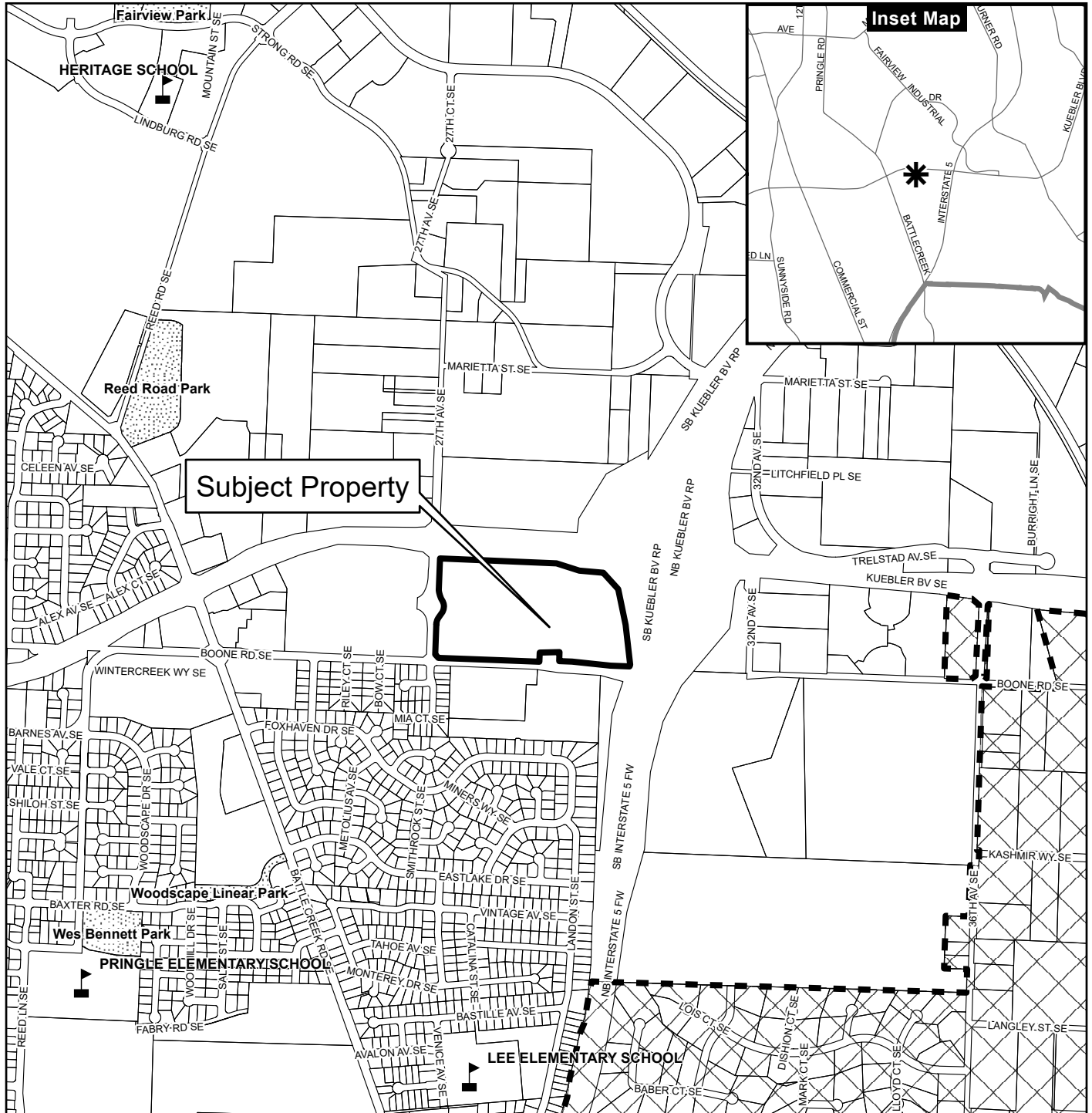
B. APPROVE the Quasi-Judicial Zone Change from RA (Residential Agriculture) to Mixed-Use II (MU-II) and Mixed- Use III (MU-III) subject to the following conditions of approval:

- Condition 1:** The subject property shall not contain more than three uses with drive throughs.
- Condition 2:** The subject property shall have no single building footprint that is constructed with more than 70,000 sq. ft. except for parking structure.
- Condition 3:** The driveway within the development shall considered a primary street, as highlighted in the Attachment D. Constructed to a min local street standard. Setback and development standards where applicable the back of sidewalk shall be the assumed property line.
- Condition 4:** The applicant shall coordinate with Cherriots for the location of new bus stops. The applicant shall submit evidence from Cherriots that installation of bus stops as requested is completed.
- Condition 5:** The site shall not exceed a total trip generation of 25,348 vehicles per day.
- Condition 6:** Mitigation as detailed in the Transportation Planning Rule analysis shall be completed as follows:
- *Kuebler Boulevard/Commercial Street;*
 - *Implement signal timing improvements and operations.*
 - *Kuebler Boulevard/Battle Creek Road:*
 - *Install dual 250-foot-long southbound left turn lanes.*
 - *Kuebler Boulevard/27th Avenue:*
 - *Install a second northbound right turn lane to the round-about;*
 - *Install a second northbound left turn lane to the round-about;*
 - *Extend (by restriping) the dual westbound left turn lanes to 650 feet in length.*
 - *Kuebler Boulevard/36th Avenue:*
 - *Install a separate 250-foot-long westbound right turn lane, plus transitions.*
 - *Site Access on 27th Avenue.*
 - *Add a second westbound right-turn lane.*








- Attachments:
- A. Vicinity Map
 - B. Neighborhood Association Meeting Summary
 - C. South Gateway Neighborhood Association Comments
 - D. Applicant's Conceptual Plan
 - E. MU-II and MU-III use table

Prepared by Olivia Dias, Current Planning Manager

Vicinity Map 2900 Block Kuebler BLVD SE



Legend

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

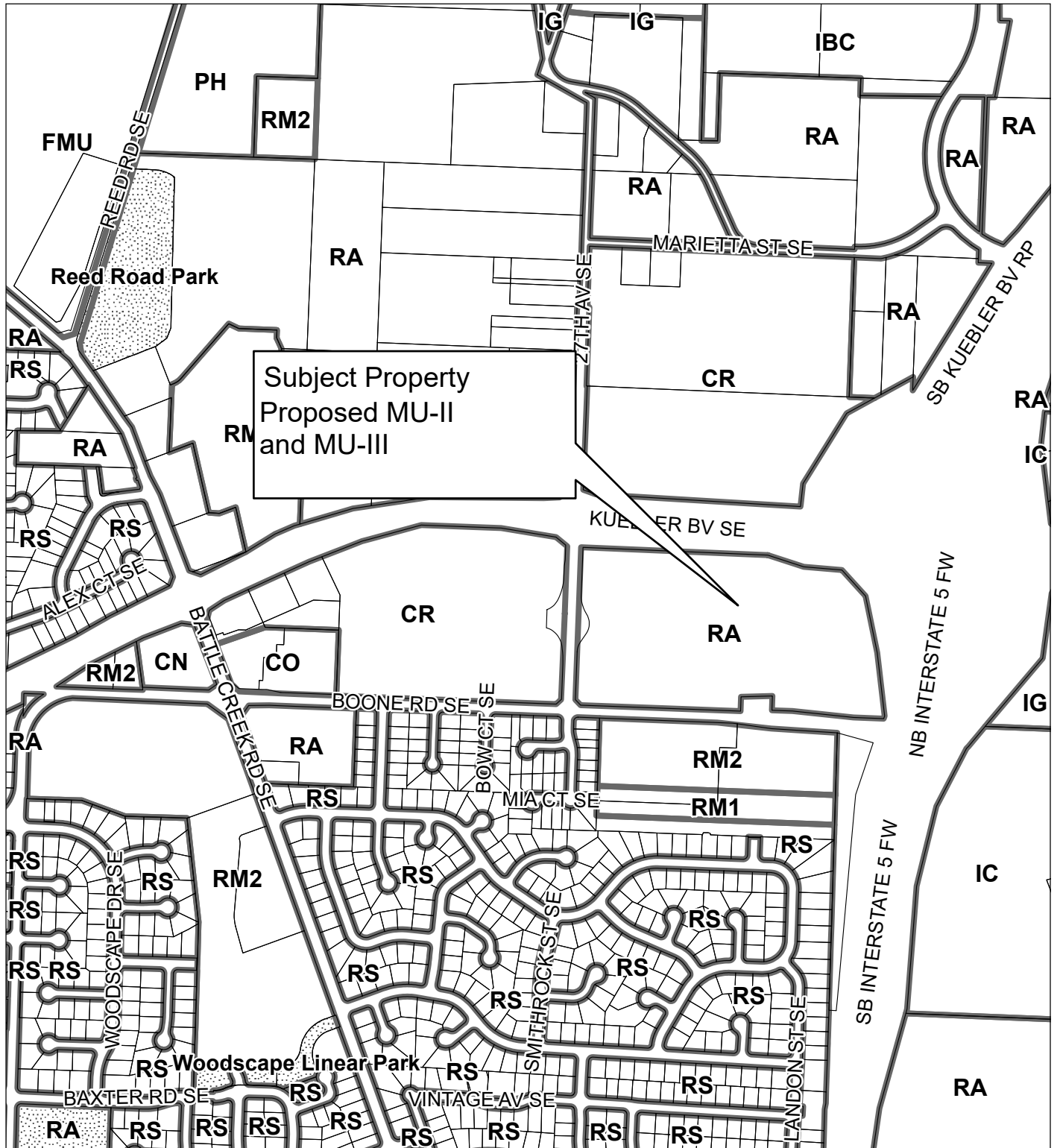

CITY OF Salem
 AT YOUR SERVICE
 Community Development Dept.

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PROPOSED ZONING MAP CHANGE



Subject Property
Proposed MU-II
and MU-III

Legend

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

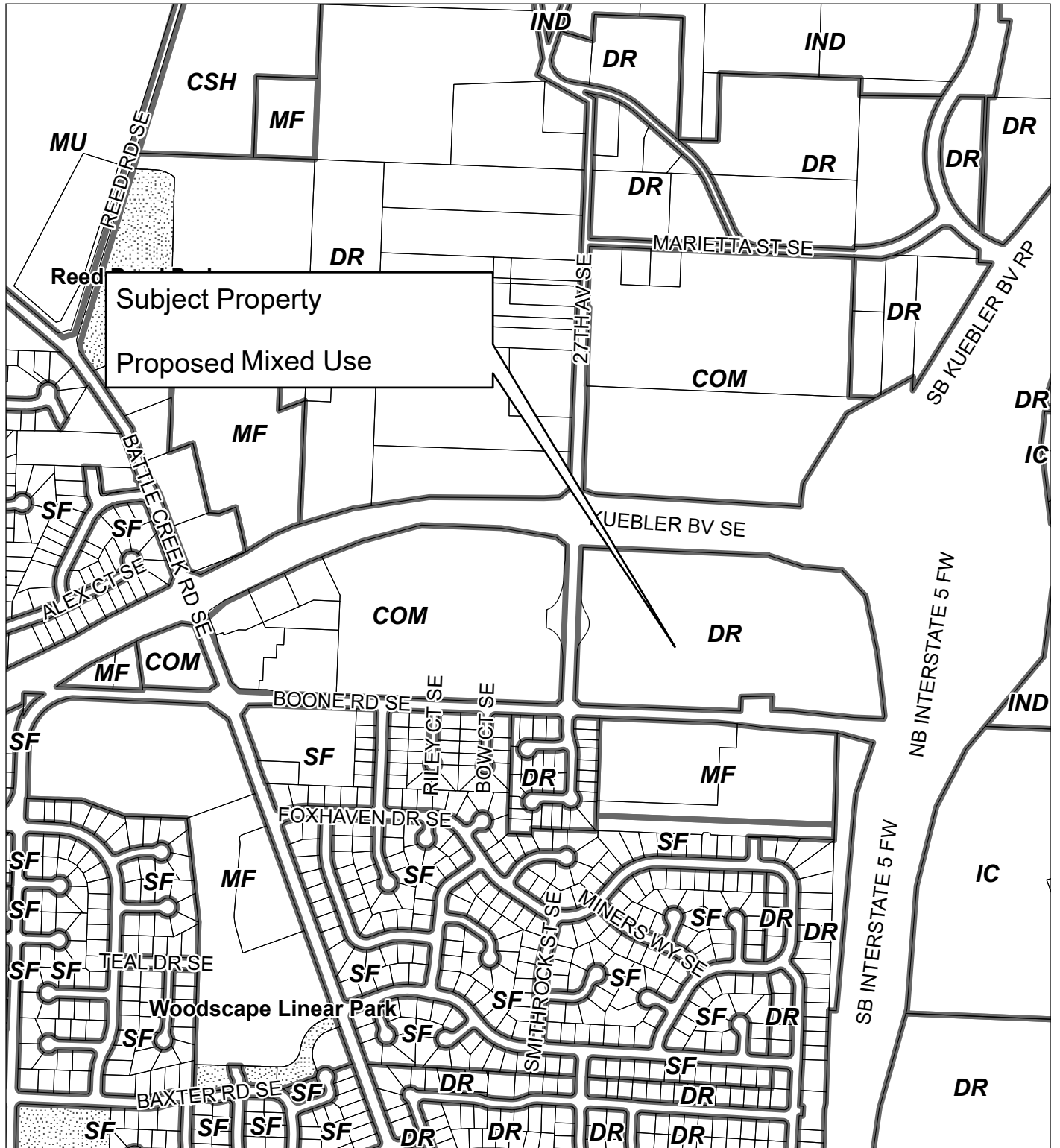
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CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

PROPOSED COMPREHENSIVE PLAN CHANGE



Legend

- Comprehensive Plan
- Urban Growth Boundary
- Outside Salem City Limits
- Taxlots
- Parks
- Schools

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

JUNE 10, 2021
SOUTH GATEWAY NEIGHBORHOOD ASSOCIATION MEETING
IN LIEU OF OPEN HOUSE SRC 300.320
ATTENDANCE LIST & NOTES

Kuebler Village

Notes by: Andy Harmon, Steele Associates Architects.

Attendees:

Julie Yip (Not actual name)– Board Member
Kathleen Lempka – Board Member
Sylvia Machado – Board Member
Michael Hughes – Vice Chair and Co-Land Use Chair
Suzi Nerli
Jerry Sachtjen - Treasurer
Dave Mckenna - Secretary
Jeremy Schoenfelder – Mosaic Management
Andy Harmon – Steele Associates Architects
Tony Martin – COS Traffic
Jakie Leung – Salem City Councilor
Charey Cooke
Deb Romano – City of Salem Code Enforcement
Austin Ross – COS Long Range Planning (present to discuss “Our Salem”)
Carol Dare
Jake Krishman – Board Member
Glenn Baly – Board Member?
Debbie Aguilar – Salem Police Department
Eunice Kim

Notes:

Jeremy Schoenfelder – Introductions, stated name, phone number and email address. Stated property location.

Andy Harmon – Brief over of the project and site and possible uses. Shared (screen-share) bubble diagram submitted for the pre-application.

JS – Traffic study and potential impacts, worst case scenario. ODOT has provide a letter acknowledging the soundness of the study and proposed mitigation efforts.

JS – Schedule, submitting by the end of June and hearing likely in late August or September.

JS – Some interest from local vendors, coffee shop etc.

Sylvia Machado – Can you share the traffic study.

JS – Yes, we will email to Glenn and he can distribute

Glenn – Yes

Q – Medical Office

JS – Described what a medical office building is

Q – How about a pharmacy

JS – Yes, we are open to that and are looking at that

Q – What about pocket parks

JS – Yes, we will look for opportunities for parks once the uses start to fill in and civil engineering is refined. We feel that parks are beneficial to the users and helps promote a true community feel, common areas as well.

Statement – We would like a dog park.

JS – That would be nice for the residential component.

Jerry – Can you reiterate the zone change.

JS – currently RA, change to CR.

Michael – Why not MU?

AH – CR aligns with Salem Vision Plan and allows the most flexibility.

Michael – I like what you are saying and then Costco site is CR and so were a little gun-shy.

JS – Understood, look at what we have done across the road, and we wish to protect our investment.

Glenn – Would you be open to certain conditions? CR could lead to a big box store or a gas station.

JS – I do not think we can do that legally through the development approval process. This is a long-term development, and we cannot prophesize that far into the future.

Glenn – PacTrust told us the same thing and look what we have.

JS – We just cannot box ourselves in right now to protect our investors.

Jerry – Sounds like you are moving forward whether we approve your project or not.

JS – Its not that were not concerned, we need to move forward because development take time. We are here to listen.

Glenn – We appreciate and like your design but with what happened with Costco and with the property to the north being zoned commercial and we are worried that we are going to get another Costco. We are concerned about traffic. If we support this, we want some type of insurance that we are not going to get another big box store with heavy traffic.

JS – Please send me your thoughts and comments.

Glenn – We will do that.

Jerry – We need to see that traffic study.

JS – yes, we will send that to you, and we had that traffic study was completed with the worst possible case scenario would be so that we understand the impacts of that and so we can stay below that. We

did the inverse of what Costco does, they provide conservative numbers to make the impact look small. We looked at it from a worst-case scenario to understand the impacts.

Q/S – Costco has fuel pumps and that will have a big impact on traffic.

JS – Yes, the fuel stations can get busy. Costco designs their stations to fill cars from either side of the car.

Jerry – Costco has 30-32 pumps going in, that will put an awful strain on 27th.

No additional comments

JS – Closing comments: We will send out the traffic study and will stay in touch, please email with any questions. Thank you!

**SIGN POSTING AFFIDAVIT
FOR NHA MEETING IN LIEU OF OPEN HOUSE**

NAME OF APPLICANT/REPRESENTATIVE Boone Road Commercial LLC

ADDRESS OF SUBJECT PROPERTY 0 Kuebler Blvd SE

CASE NO. Permit Nos. 21 115803 00 ZO & 21 115805 00 ZO

CASE PLANNER TBD

Post No Sooner Than (14 days prior to hearing) N/A

Post No Later Than (10 days prior to hearing) N/A

Return This Form to Room 305 By: (within 5 days after posting) N/A

Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public. The notice shall remain in place throughout the day of the public hearing. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file. The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the close of the public hearing.

IF THE SUBJECT PROPERTY IS NOT PROPERLY POSTED 10 DAYS PRIOR TO THE HEARING, THE HEARING WILL NOT BE HELD.

AFFIDAVIT OF POSTING NOTICE

I, Kelly Harder, being first duly sworn; say that I am over 21 years of age and that I posted the notice(s) as follows: (Describe location of notice(s)).

SE corner of Kuebler & 27th; NE corner of 27th & Boone;
SE corner of 27th & Boone

That I posted said notice in the manner at the place above stated on the 2nd day of June, 2021, and in a conspicuous place.

That I have personal knowledge of all facts set forth and all statements herein are just and true.

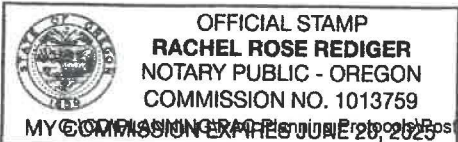

Applicant's Signature

-----NOTARY PUBLIC-----

STATE OF OREGON)
County of MARION) ss.

This instrument was acknowledged before me on this 30 day of June, 2021, by Rachel Rediger

Rachel Rediger
Notary Public for Oregon
My Commission Expires: June, 20 2025



PUBLIC NOTICE

NOTICE OF VIRTUAL NEIGHBORHOOD ASSOCIATION MEETING

SUMMARY - Proposed 24.64 acre mixed used site development, including commercial, residential, and medical office space.

APPLICANT - Mosaic Development Services, LLC, 503-391-9999, jeremys@mosaicdevelopmentservices.com

ADDRESS - Tax lot 2201, encompassed by Kuebler Blvd, 27th St, Boone Rd SE, and Interstate 5

Neighborhood Association Meeting on June 10, 2021

Meeting starts at 6:45 SE PM,
Public Virtual Zoom Meeting
Meeting ID: 841 4606 0949
Passcode : 955071

PUBLIC NOTICE

NOTICE OF VIRTUAL NEIGHBORHOOD ASSOCIATION MEETING

SUMMARY: Proposed 34.44 acre mixed used site development, including commercial, residential, and medical office space.

APPLICANT: Mosaic Development Services, LLC, 303-391-9999, jeremy@mosaicdevelopment.com

ADDRESS: Tax lot 2281, encompassed by Kuebler Blvd., 17th St., Boone Rd SE, and Interstate 5

**Neighborhood Association
Meeting on June 10, 2021**

Meeting starts at 6:45 SE PM,
Public Virtual Zoom Meeting
Meeting ID: 841 4606 0949
Passcode : 955071

PUBLIC NOTICE

NOTICE OF VIRTUAL NEIGHBORHOOD ASSOCIATION MEETING

SUMMARY - Proposed 24.64 acre mixed used site development, including commercial, residential, and medical office space.

APPLICANT - Mosaic Development Services, LLC, 503-391-9999, jeremys@mosaicdevelopmentsservices.com

ADDRESS - Tax lot 2201, encompassed by Kuebler Blvd, 27th St, Boone Rd SE, and Interstate 5

Neighborhood Association Meeting on June 10, 2021

Meeting starts at 6:45 SE PM,
Public Virtual Zoom Meeting
Meeting ID: 841 4606 0949
Passcode : 955071

From: [Jeremy Schoenfelder](#)
To: [Hannah F. Stevenson](#)
Cc: [Mark D. Shipman](#)
Subject: FW: Notice of NHA Meeting in Lieu of Open House
Date: Wednesday, June 2, 2021 2:45:35 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Kuebler Village Conceptual Site Plan.pdf](#)
[South Gateway meeting request Kuebler Village.pdf](#)

Jeremy Schoenfelder
Director of Development
Mosaic Development Services, LLC
1900 Hines St. SE, Ste. 150
Salem, OR 97302
Office 503-391-9999 x4020 | Fax 503-587-8547
Mobile 602-576-2747
www.mosaicdevelopmentsservices.com



From: Jeremy Schoenfelder
Sent: Wednesday, June 2, 2021 2:45 PM
To: Glenn Baly <glennbaly12345@gmail.com>; robosushi@robosushi.com;
arasmussen@modernbuildingsystems.com; sidrakdragon@live.com; geoffreyjames@comcast.net;
LMAnderson@cityofsalem.net
Cc: odias@cityofsalem.net
Subject: Notice of NHA Meeting in Lieu of Open House

Good Afternoon,

Attached is a letter from Mosaic Development regarding plans for improvements/development on the Boone Road Commercial, LLC property, and information about an upcoming neighborhood association meeting. A representative from Mosaic Development will make a brief presentation about the project at the June 10th virtual South Gateway Neighborhood Association in lieu of holding an open house. The letter includes information about the Mosaic Development project and how to attend the virtual meeting.

Please don't hesitate to let me know if you have any questions.

Thank you,

Jeremy Schoenfelder

Director of Development

Mosaic Development Services, LLC

1900 Hines St. SE, Ste. 150

Salem, OR 97302

Office 503-391-9999 x4020 | Fax 503-587-8547

Mobile 602-576-2747

www.mosaicdevelopmentservices.com





June 2, 2021

RECIPIENTS VIA ELECTRONIC MAIL:

glennbaly12345@gmail.com, robosushi@robosushi.com, arasmussen@modernbuildingsystems.com, sidrakdragon@live.com, geoffreyjames@comcast.net and LMAnderson@cityofsalem.net

Dear Glen, Cory, Alan, Pamela, Geoffrey and Lisa:

Mosaic Development Services, LLC, (Mosaic) is in the process of developing the Boone Road Commercial property (SE corner of Kuebler & 27th) into a mixed-use project. Mosaic will be submitting a consolidated comprehensive plan change and zone change application to the City of Salem for this proposed project. The consolidated application requires Mosaic to hold an open house, or present at a neighborhood association meeting in lieu of an open house. Considering the current limitations in place to prevent the spread of the coronavirus, Mosaic is choosing to present at a virtual South Gateway Neighborhood Association meeting in lieu of holding an open house.

The City of Salem Revised Code requires this written notice be sent to you about the neighborhood association meeting opportunity.

The South Gateway Neighborhood Association will hold a virtual meeting on zoom.us on June 10, 2021 at 6:45pm. Please contact SGNA's Chair Glen Baly at glennbaly12345@gmail.com to receive a link to join the meeting.

Please see the following information about the work proposed for the subject property located at the southeast corner of 27th Avenue Southeast and Kuebler Boulevard:

The property owner (Boone Road Commercial, LLC) and the applicant (Mosaic) are proposing to rezone the Subject Property from Residential Agriculture ("**RA**") to Commercial Retail ("**CR**") and to change the comprehensive plan designation from Developing Residential to Commercial. The purpose of this combined request is to allow the Subject Property to be developed into a mixed-use project featuring a retail commercial center, mixed use, lodging, office and residential. The development of the property may be done in phases and the applicant is still developing a final development proposal which will be subject to site plan review.

Construction of phase 1 is scheduled to begin in summer of 2022. A conceptual site plan is included with this letter.

If you have any questions, please attend the Zoom meeting, or email or call me directly.



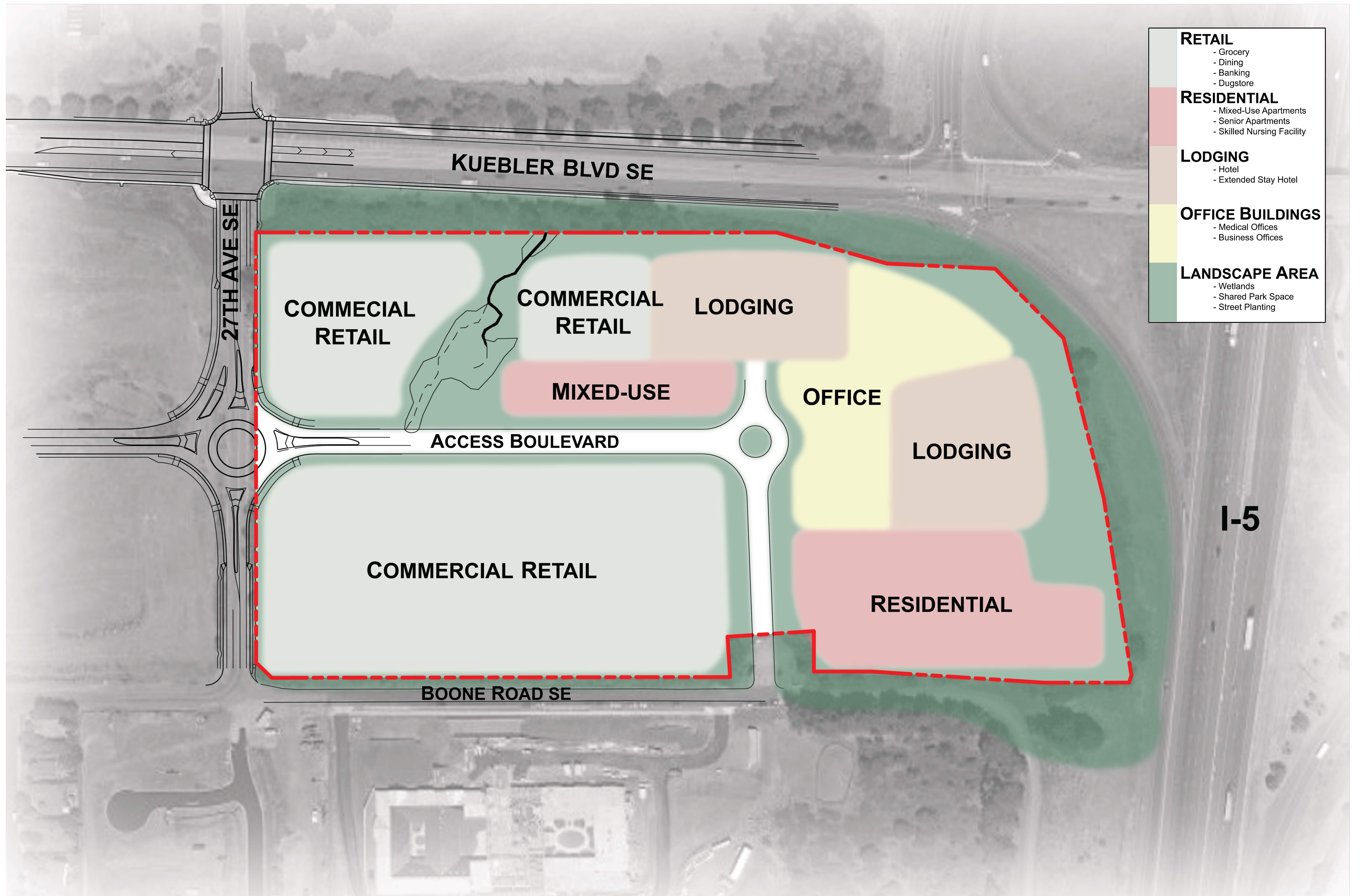
Sincerely,

A handwritten signature in black ink, appearing to read "J. Schoenfelder".

Jeremy Schoenfelder, Director of Development
Mosaic Development Services, LLC

Enclosures

CC: odias@cityofsalem.net



Kuebler Village Conceptual Site Plan

03.05.2021



NEIGHBORHOOD ASSOCIATION
555 LIBERTY ST. SE RM. 305 SALEM OR 97301 • 503-588-6207 • WWW.CITYOFSALEM.NET/NEIGHBOR

Public Testimony - **Case No. ZPC-ZC21-04**
Agenda item 4.a Rezoning – 2900 Block of Kuebler Blvd SE

The Situation



The applicant is requesting to change the zoning of the subject property from RA (Residential Agriculture) to CR (Retail Commercial).

SGNA expresses its opposition to the proposed rezoning into CR for several reasons – outlined in subsequent slides

There has been active collaboration between SGNA and Mosaic Development; unfortunately the divergence could not be bridged on critical elements

SGNA Concerns and Issues

01

Traffic issues

Per planning staff comments

- » Inadequate Transportation planning rule analysis
- » Inadequate proposed traffic mitigation

The system is not designed to support traffic demand that would be generated by the Commercial/Retail zoning district.

02

Specific usage restrictions

Specify non-allowed uses

SGNA has outlined a set of usage restrictions (as guardrails) to be incorporated into any initial decision of rezoning to avoid “Costco” type scenarios

03

Split zoning partition

Many of the intended uses can be done by other zoning categories like MU-II and CO

Based on discussions with the planning staff, we believe that the entire area does not need CR designation. It is possible to partition the lots into MU-II and CO and cap the CR designation @ 30%

Traffic related issues (per planning staff analysis)

1. The transportation system in the area of the proposed Comprehensive Plan change is designed to support the current comprehensive plan designation of RA. The system is not designed to support traffic demand that would be generated by the Commercial/Retail zoning district.
2. Access is proposed to load onto 27th Street SE, which is designated as a collector street in the Salem TSP. The design range for a collector street is for daily traffic volumes between 1,600 and 10,000 vehicle trips. This site alone is projected to generate 20,000 vehicle trips. This level of traffic is not consistent with the collector street designation.
3. The mitigation proposed creates additional barriers for pedestrian travel at the intersection of 27th and Kuebler by introducing double turn lanes, resulting in a collector street cross section that requires pedestrians to cross seven lanes of travel. This design is contrary to the Salem Transportation System Plan, that promotes safe and accessible crossings for pedestrians. In addition, the design introduces additional conflict points for bicycles navigating 27th Street between Boone Road SE and Kuebler Boulevard SE.
4. Creating a seven-lane cross section is not sensitive to the livability of the surrounding neighborhood that uses this roadway to access the network of arterial streets

Specific usage restrictive conditions

SGNA would like to propose the following restrictive conditions on the use of this property, to be incorporated into any rezoning decisions being communicated to the applicant. We believe these restrictions are necessary to meet the objectives of traffic, safety and neighborhood livability. We have seen in the past that, absent specific restrictions, there is a wide latitude for the type of development to be done, not just by the present owners but any future owners. We wish to ensure that these restrictions remain in place for current and future site development plans.

These restrictions basically would not allow the site to be developed for any of the following uses:

1. Motor Vehicle, Tire & Motor Home Sales & Services (gas stations, commercial parking, etc.)
2. Recreation, Entertainment and Cultural Services (except parks and open space and religious assembly)
3. Construction, contracting, repair, maintenance and industrial services (general repair, landscape, lawn and garden, etc.)
4. Wholesale sales, storage and distribution
5. Manufacturing
6. Transportation facilities
7. Utilities
8. Farming, forestry and animal services (except small vet services)
9. No commercial building with a buildout of over 50,000 sq. ft. - Average footage of a Whole Foods is around 40,000 square feet.
10. No drive-throughs – Since this site is proximate to the I-5 exit, there's a huge potential for traffic queuing up and causing excessive congestion.

Split zoning

SGNA would like to propose that instead of permitting rezoning of the entire area as CR, it may be worthwhile to explore splitting into multiple zoning categories – that would still allow for the uses as indicated by the applicant but capping CR to a max of 30% of the developed area.

Some of the categories that could be investigated include:

MU-II, which would allow single and multiple family residential as well as retail, dining, office, entertainment and a number of other uses. Retail sales would not be limited under the MU designations.

CO as recommended by city staff. The CO designation would help to mitigate some traffic issues since the peak demand times would tend to be different. CO would also allow single and multiple family residential as well as nursing care but would limit some retail sales and gas stations. However, it would limit retail sales to newsstands, caterers and retail sales of agricultural products.

Obviously, SGNA is not an expert on zoning classification and uses and would rely on the planning staff to validate that these would not increase the traffic related issues or violate “Our Salem” guidelines.

The restrictive conditions mentioned in the prior slide are meant to provide guardrails for any rezoning category.

Summary and key takeaways

SGNA opposes rezoning of entire property to CR

Traffic congestion issues

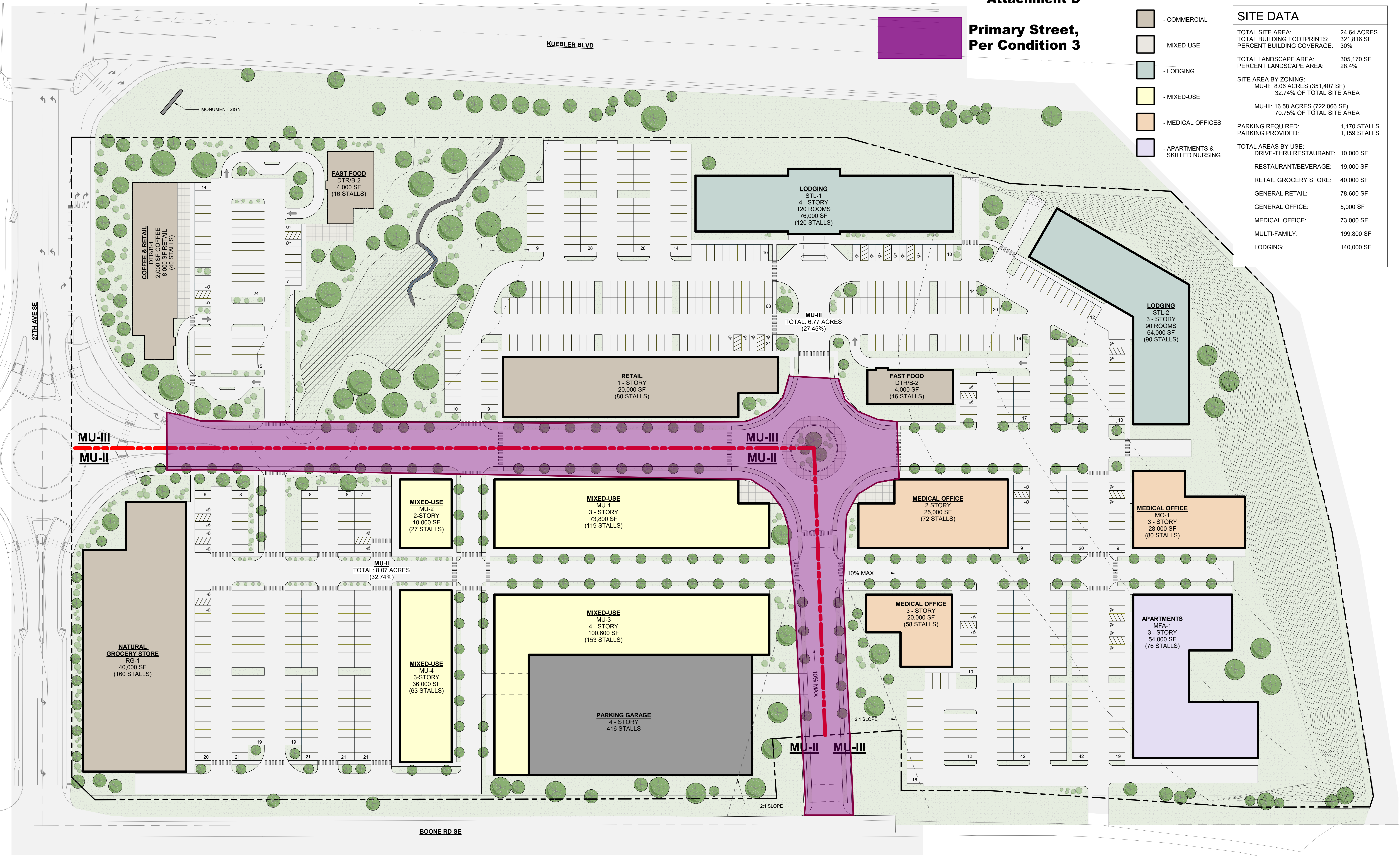
Specify restrictions on usage

Split zoning partition

Primary Street,
Per Condition 3

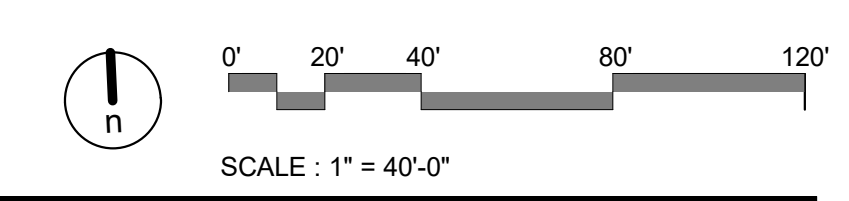
- COMMERCIAL
- MIXED-USE
- LODGING
- MIXED-USE
- MEDICAL OFFICES
- APARTMENTS & SKILLED NURSING

SITE DATA	
TOTAL SITE AREA:	24.64 ACRES
TOTAL BUILDING FOOTPRINTS:	321,816 SF
PERCENT BUILDING COVERAGE:	30%
TOTAL LANDSCAPE AREA:	305,170 SF
PERCENT LANDSCAPE AREA:	28.4%
SITE AREA BY ZONING:	
MU-II: 8.06 ACRES (351,407 SF)	32.74% OF TOTAL SITE AREA
MU-III: 16.58 ACRES (722,066 SF)	70.75% OF TOTAL SITE AREA
PARKING REQUIRED:	1,170 STALLS
PARKING PROVIDED:	1,159 STALLS
TOTAL AREAS BY USE:	
DRIVE-THRU RESTAURANT:	10,000 SF
RESTAURANT/BEVERAGE:	19,000 SF
RETAIL GROCERY STORE:	40,000 SF
GENERAL RETAIL:	78,600 SF
GENERAL OFFICE:	5,000 SF
MEDICAL OFFICE:	73,000 SF
MULTI-FAMILY:	199,800 SF
LODGING:	140,000 SF



Kuebler Village Conceptual Site Plan

09.19.2022



CHAPTER 534. - MIXED USE-II

Sec. 534.010. Uses.

- (a) The permitted (P), special (S), conditional (C), and prohibited (N) uses in the MU-II zone are set forth in Table 534-1.

**TABLE 534-1
USES**

Table 534-1: Uses		
	Status	
Household Living		
Single family	P	The following single family activities: <ul style="list-style-type: none"> • Townhouse. • Residential home, as defined under ORS 197.660.
	N	All other single family.
Two family	N	
Three family	P	
Four family	P	
Multiple family	P	
Group Living		
Room and board	P	Room and board serving 5 or fewer persons.
	C	Room and board serving 6 to 75 persons.
	N	All other room and board
Residential care	P	The following residential care activities: <ul style="list-style-type: none"> • Residential facility, as defined under ORS 197.660. • Assisted living.
	N	All other residential care.
Nursing care	N	
Lodging		
Short-term commercial lodging	P	
Long-term commercial lodging	N	
Non-profit shelters	P	Non-profit shelters serving 5 or fewer persons.
	C	Non-profit shelters serving 6 to 75 persons.
	N	All other non-profit shelters.
Retail Sales and Services		
Eating and drinking establishments	P	
Retail sales	P	
Personal services	P	
Postal services and retail financial services	P	
Business and Professional Services		
Office	P	
Audio/visual media production	P	
Laboratory research and testing	P	
Motor Vehicle, Trailer, and Manufactured Dwelling Sales and Service		
Motor vehicle and manufactured dwelling and trailer sales	N	

Motor vehicle services	N	
Commercial parking	N	Standalone surface parking lots
	P	All other commercial parking
Park-and-ride facilities	N	
Taxicabs and car services	N	
Heavy vehicle and trailer sales	N	
Heavy vehicle and trailer service and storage	N	
Recreation, Entertainment, and Cultural Services and Facilities		
Commercial entertainment— Indoor	N	Firing ranges
	P	All other commercial entertainment—Indoor.
Commercial entertainment— Outdoor	N	
Major event entertainment	N	
Recreational and cultural community services	P	
Parks and open space	P	
Non-profit membership assembly	P	
Religious assembly	P	
Health Services		
Medical centers/hospitals	N	
Outpatient medical services and laboratories	P	
Educational Services		
Day care	P	
Basic education	P	
Post-secondary and adult education	P	
Civic Services		
Government services	P	
Social services	P	
Governmental maintenance services and construction	N	
Public Safety		
Emergency services	P	
Detention facilities	N	
Military installations	N	
Funeral and Related Services		
Cemeteries	N	
Funeral and cremation services	N	
Construction Contracting, Repair, Maintenance, and Industrial Services		
General repair services	P	
Building and ground services and construction contracting	N	
Cleaning plants	N	
Industrial services	N	
Wholesale Sales, Storage, and Distribution		
General wholesaling	N	
Heavy wholesaling	N	

Warehousing and distribution	N	
Self-service storage	N	
Manufacturing		
General manufacturing	P	General manufacturing, provided the manufacturing does not exceed 5,000 square feet of total floor area per development site and retail sales of the products manufactured is provided on-site.
	N	All other general manufacturing.
Heavy manufacturing	N	
Printing	N	
Transportation Facilities		
Aviation facilities	N	
Passenger ground transportation facilities	P	Transit stop shelters
	N	All other passenger ground transportation facilities
Marine facilities	N	
Utilities		
Basic utilities	N	Reservoirs; water storage facilities; electric substation.
	P	All other basic utilities.
Wireless communication facilities	Allowed	Wireless communication facilities are allowed, subject to SRC chapter 703.
Drinking water treatment facilities	N	
Power generation facilities	N	
Data center facilities	N	
Fuel dealers	N	
Waste-related facilities	N	
Mining and natural resource extraction	N	
Petroleum and natural gas	N	
Surface mining	N	
Farming, Forestry, and Animal Services		
Agriculture	N	
Forestry	N	
Agriculture and forestry services	N	
Keeping of livestock and other animals	N	
Animal services	P	
Other Uses		
Home occupations	S	Home occupations, subject to SRC 700.020.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

CHAPTER 535. - MIXED USE-III

Sec. 535.010. Uses.

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the MU-III zone are set forth in Table 535-1.

**TABLE 535-1
USES**

TABLE 535-1. USES		
<u>Use</u>	<u>Status</u>	<u>Limitations & Qualifications</u>
Household Living		
<u>Single family</u>	<u>P</u>	The following single family activities: <ul style="list-style-type: none"> ■ <u>Townhouse.</u> ■ <u>Residential home, as defined under ORS 197.660.</u> ■ <u>Single family, when located in a mixed-use building.</u>
	<u>N</u>	<u>All other single family.</u>
<u>Two family</u>	<u>P</u>	<u>Two family, when located in a mixed-use building.</u>
	<u>N</u>	<u>All other two family.</u>
<u>Three family</u>	<u>S</u>	<u>Subject to SRC 700.081.</u>
<u>Four family</u>	<u>S</u>	<u>Subject to SRC 700.081.</u>
<u>Multiple family</u>	<u>P</u>	
Group Living		
<u>Room and board</u>	<u>P</u>	<u>Room and board serving 5 or fewer persons.</u>
	<u>C</u>	<u>Room and board serving 6 to 75 persons.</u>
	<u>N</u>	<u>All other room and board.</u>
<u>Residential care</u>	<u>P</u>	
<u>Nursing care</u>	<u>P</u>	
Lodging		
<u>Short-term commercial lodging</u>	<u>P</u>	
<u>Long-term commercial lodging</u>	<u>C</u>	
<u>Nonprofit shelters</u>	<u>P</u>	<u>Nonprofit shelters serving 5 or fewer persons.</u>
	<u>C</u>	<u>Nonprofit shelters serving 6 to 75 persons.</u>
	<u>P</u>	<u>Nonprofit shelters serving victims of domestic violence for 10 or fewer persons.</u>
	<u>N</u>	<u>All other nonprofit shelters.</u>
Retail Sales and Service		
<u>Eating and drinking establishments</u>	<u>P</u>	
<u>Retail sales</u>	<u>N</u>	<u>Used merchandise stores, where sales and storage of merchandise and equipment is not conducted entirely within a building.</u>
	<u>P</u>	<u>All other retail sales.</u>
<u>Personal services</u>	<u>P</u>	
<u>Postal services and retail financial services</u>	<u>P</u>	
Business and Professional Services		
<u>Office</u>	<u>P</u>	
<u>Audio/visual media production</u>	<u>P</u>	
<u>Laboratory research and testing</u>	<u>P</u>	
Motor Vehicle, Trailer, and Manufactured Dwelling Sales and Service		

<u>Motor vehicle and manufactured dwelling and trailer sales</u>	<u>C</u>	
<u>Motor vehicle services</u>	<u>P</u>	<u>Gasoline service stations.</u>
	<u>C</u>	<u>All other motor vehicle services.</u>
<u>Commercial parking</u>	<u>P</u>	
<u>Park-and-ride facilities</u>	<u>P</u>	
<u>Taxicabs and car services</u>	<u>P</u>	
<u>Heavy vehicle and trailer sales</u>	<u>C</u>	<u>Truck rental and leasing.</u>
	<u>N</u>	<u>All other heavy vehicle and trailer sales.</u>
<u>Heavy vehicle and trailer service and storage</u>	<u>C</u>	<u>The following heavy vehicle and trailer service and storage activities:</u> <ul style="list-style-type: none"> ■ <u>Truck stops.</u> ■ <u>Heavy vehicle and equipment operation instruction.</u> ■ <u>Tire retreading and tire repair shops.</u>
	<u>N</u>	<u>All other heavy vehicle and trailer service and storage.</u>
Recreation, Entertainment, and Cultural Services and Facilities		
<u>Commercial entertainment—indoor</u>	<u>C</u>	<u>Nightclubs, located within 200 feet of a residential zone.</u>
	<u>P</u>	<u>All other commercial entertainment—indoor.</u>
<u>Commercial entertainment—outdoor</u>	<u>C</u>	<u>Privately owned camps, campgrounds, and recreational vehicle parks.</u>
	<u>N</u>	<u>The following commercial entertainment—outdoor activities:</u> <ul style="list-style-type: none"> ■ <u>Amusement parks.</u> ■ <u>Drive-in movie theaters.</u>
	<u>P</u>	<u>All other commercial entertainment—outdoor.</u>
<u>Major event entertainment</u>	<u>C</u>	
<u>Recreational and cultural community services</u>	<u>P</u>	
<u>Parks and open space</u>	<u>P</u>	
<u>Nonprofit membership assembly</u>	<u>P</u>	
<u>Religious assembly</u>	<u>P</u>	
Health Services		
<u>Medical centers/hospitals</u>	<u>N</u>	
<u>Outpatient medical services and laboratories</u>	<u>P</u>	
Education Services		
<u>Day care</u>	<u>P</u>	
<u>Basic education</u>	<u>P</u>	
<u>Post-secondary and adult education</u>	<u>P</u>	
Civic Services		
<u>Governmental services</u>	<u>P</u>	
<u>Social services</u>	<u>P</u>	
<u>Governmental maintenance services and construction</u>	<u>N</u>	
Public Safety		
<u>Emergency services</u>	<u>P</u>	
<u>Detention facilities</u>	<u>N</u>	
<u>Military Installations</u>	<u>P</u>	

Funeral and Related Services		
<u>Cemeteries</u>	<u>N</u>	
<u>Funeral and cremation services</u>	<u>P</u>	
Construction Contracting, Repair, Maintenance, and Industrial Services		
<u>General repair services</u>	<u>P</u>	
<u>Building and grounds services and construction contracting</u>	<u>P</u>	<u>The following buildings and grounds services and construction contracting activities:</u> <ul style="list-style-type: none"> ■ <u>Landscape, lawn, and garden services.</u> ■ <u>Tree and shrub services.</u>
	<u>C</u>	<u>Carpet and upholstery cleaning establishments.</u>
	<u>N</u>	<u>All other building and grounds services and construction contracting.</u>
<u>Cleaning plants</u>	<u>N</u>	
<u>Industrial services</u>	<u>P</u>	
Wholesale Sales, Storage, and Distribution		
<u>General wholesaling</u>	<u>N</u>	
<u>Heavy wholesaling</u>	<u>N</u>	
<u>Warehousing and distribution</u>	<u>C</u>	<u>Distribution centers for online, mail order, and catalog sales.</u>
	<u>N</u>	<u>All other warehousing and distribution.</u>
<u>Self-service storage</u>	<u>N</u>	
Manufacturing		
<u>General manufacturing</u>	<u>P</u>	<u>General manufacturing, provided the manufacturing does not exceed 10,000 square feet of total floor area per development site and retail sales of the products manufactured is provided on-site.</u>
	<u>C</u>	<u>The following general manufacturing activities, when exceeding 10,000 square feet of total floor area per development site:</u> <ul style="list-style-type: none"> ■ <u>Industrial and institutional food service contractors.</u> ■ <u>Costume jewelry and precious metals metalsmithing.</u> ■ <u>Sundries and notions.</u> ■ <u>Signs.</u>
	<u>N</u>	<u>All other general manufacturing.</u>
<u>Heavy manufacturing</u>	<u>N</u>	
<u>Printing</u>	<u>P</u>	
Transportation Facilities		
<u>Aviation facilities</u>	<u>N</u>	
<u>Passenger ground transportation facilities</u>	<u>P</u>	
<u>Marine facilities</u>	<u>N</u>	
Utilities		
<u>Basic utilities</u>	<u>C</u>	<u>Reservoirs; water storage facilities.</u>
	<u>P</u>	<u>All other basic utilities.</u>
<u>Wireless communication facilities</u>	<u>Allowed</u>	<u>Wireless communication facilities are allowed, subject to SRC chapter 703.</u>
<u>Drinking water treatment facilities</u>	<u>C</u>	
<u>Power generation facilities</u>	<u>C</u>	
<u>Data center facilities</u>	<u>N</u>	

Fuel dealers	<u>N</u>	
Waste-related facilities	<u>C</u>	The following waste-related facilities are allowed conditionally: <ul style="list-style-type: none"> ■ Recycling depots. ■ Solid waste transfer stations.
	<u>N</u>	All other waste-related facilities.
Mining and Natural Resource Extraction		
Petroleum and natural gas production	<u>N</u>	
Surface mining	<u>N</u>	
Farming, Forestry, and Animal Services		
Agriculture	<u>N</u>	Marijuana production.
	<u>P</u>	All other agriculture.
Forestry	<u>P</u>	
Agriculture and forestry services	<u>P</u>	
Keeping of livestock and other animals	<u>N</u>	
Animal services	<u>N</u>	New wildlife rehabilitation facility.
	<u>P</u>	All other animal services.
Other Uses		
Temporary uses	<u>P</u>	The following temporary uses: <ul style="list-style-type: none"> ■ Emergency shelter, subject to SRC 701.025. ■ Managed temporary village, subject to SRC 701.030. ■ Temporary motor vehicle and recreational vehicle sales, subject to SRC 701.035.
Home occupations	<u>S</u>	Home occupations, subject to SRC 700.020.
Accessory dwelling units	<u>S</u>	Accessory dwelling units, subject to SRC 700.007.