

TO: PLANNING COMMISSION

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

DATE: JANUARY 9, 2024

SUBJECT: SUPPLEMENTAL STAFF REPORT FOR COMPREHENSIVE PLAN CHANGE / ZONE
CHANGE CASE NO. 23-02; 5465 TURNER ROAD SE (AMANDA APPLICATION NO.
22-124542-PLN)

BACKGROUND

On November 21, 2021, the Planning Commission opened the public hearing for consolidated Comprehensive Plan Map Amendment and Zone Change Case No. 23-02. The Planning Commission did not receive testimony and made a motion to continue the public hearing to December 19, 2023.

On December 19, 2023, the applicant requested the Planning Commission continue the public hearing to January 9, 2024. The Planning Commission did not receive testimony and made a motion to continue the public hearing to January 9, 2024.

SUPPLEMENTAL INFORMATION

1. Ownership Correction & Minor Typographical errors

The staff report dated November 21, 2023 listed '5465 Turner Exchange LLC (Terrance (Christopher) Blackburn and Thomas Moore)' which is now incorrect. The current owner of the subject property is Herron Crossing LLC (Terrance (Christopher) Blackburn and Sean Blackburn).

On page 1 of the staff report it states the application was submitted on 'December 15, 2023,' which should be corrected to December 15, **2022**.

There are several errors regarding the zoning district in the staff report. The property is zoned PS (Public Service), not Public Safety.

These are not substantive errors but typographical errors.

In addition, additional written testimony submitted by the applicant on December 27, 2023 (**Attachment A**) which references 'Salem Unified Code'. Staff in all response assumes the applicant is referencing 'Salem Revised Code' and not any other adopted document.

2. Additional Comments Submitted

Comments were submitted by Oregon Department of Aviation and Salem Keizer School District which are included as **Attachment B**.

3. Additional Findings

Below are additional findings addressing SRC 64.025 and SRC 265.005(e):

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**

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.**

Findings: The approval of the requested Comprehensive Plan Map change and Zone Change is contingent on compliance with one of the three approval criteria listed in both SRC 64.025 and SRC 265.005. In the applicant's written statement, the applicant addresses both a change in vicinity and that the change is equally or better suited for the property.

The applicant states there is an '*economic, demographic, or physical character [change] of the vicinity*' when addressing SRC 64.025(e)(2)(A)(i) and SRC 265.005(e)(i) stating that the subject property has changed from public ownership to private ownership. When addressing this criterion, staff looks at various factors including types of development activity, major infrastructure changes, income levels in the area, or the presence of business have changed. The subject property is close to the Mill Creek Corporate Center, and the Salem Renewable Energy and Technology Center, industrial areas which have been developing for more than a decade. The vicinity has not changed in relation to economic characteristics. The physical character of the vicinity has not changed due to the property being located inside city limits, at the Urban Growth Boundary to the south, with public and semi-public ownership to the northeast. The overall area has been held in open space for many decades. The closing of the prison and the selling of the property to a private entity could be enough to satisfy this criterion.

The applicant then addresses that the proposed zone changes are equally or better suited for the property than the existing designation and zone (SRC 64.025(e)(2)(A)(ii) and SRC 265.005(e)(iii)).

Staff concurs that with the change in ownership a different designation and zone would be better suited than a Public designation or zone. The applicant has proposed four designations and zones, two of which allow for various Industrial Uses. The proposed IG (Industrial General) and IC (Industrial Commercial) zones are adjacent to other industrial uses, although those properties have a natural barrier to the natural resources in the area and are located hundreds of feet from Mill Creek. The proposed industrial area is adjacent to future residential development.

Industrial Uses can generate a variety of pollutants, including air emissions, water contamination, sediment run-off and noise. These pollutants can have a negative impact on the health and well-being of residents living nearby. For example, air emissions from industrial uses can lead to respiratory problems, such as asthma and bronchitis. Water contamination from industrial activities can make it unsafe to drink or swim in nearby water bodies. Noise pollution from industrial activities can disrupt sleep and cause stress.

Industrial activities can generate hazardous waste, chemicals, and pollutants that can contaminate the soil and water within the creek through accidental spills, leaks, or improper disposal. This can harm aquatic life, disrupt the ecosystem, and potentially render the water unsafe for drinking, recreation, and use by wildlife. Industrial facilities can also disrupt the flow of water in creeks and waterways, which can lead to flooding and an increased risk to people and property.

In addition to the health risks, industrial uses can also reduce the quality of life for residents in nearby neighborhoods. The presence of industrial uses can make an area less desirable to live in, with increased traffic congestion and safety hazards.

In comparing the uses currently allowed on the subject property and those allowed in the proposed zones, staff evaluated which uses could be restricted to address the concerns listed above to residents and the natural resources located on the property. The decision criteria require the proposed zone *be equally or better suited* as the current zoning. With the below list of restricted uses, the proposed zones would allow for more uses than the existing zone while restricting those uses which can generate pollutants, noise, sediment and water contamination. None of the uses listed in Condition 1 are currently permitted within the existing zoning district.

The IC and IG zones allow uses which due to the amount of traffic, noise generation, and nature of the use may not be entirely compatible with the surrounding area. Staff recommends a condition of approval which limits the more intrusive uses which are listed as permitted uses in said zones. Staff did not recommend limiting the uses in the original staff report as a larger buffer along the creek was intended to protect the creek, habitat, vegetation, and limit flood impacts. However, as discussed in Section 6 of this report, the proposed condition regarding a creek buffer has changed. Therefore, in order to ensure the proposed zone is better suited for the property than the existing zone, and the potential impacts of the proposed zone and any development of the property on the immediate neighborhood are minimized, the following condition of approval is recommended:

Condition 1: The following uses/activities allowed within the IC (Industrial Commercial) zone and the IG (General Industrial) zone shall be prohibited uses/activities allowed on the subject property:

Industrial Commercial Zoning District	
Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Commercial entertainment—outdoor	N

Major event entertainment	N
Funeral and Cremation Services	N
Building and grounds services and construction contracting	N
Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General Manufacturing	N
Data Center	N
Fuel Dealers	N
Waste Related Facilities	N
Petroleum and natural gas production	N
Surface mining	N
Animal Services	N - Boarding
	P - All other uses allowed

General Industrial Zoning District	
Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Major event entertainment	N
Building and grounds services and construction contracting	N
Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General Manufacturing	N
Heavy Manufacturing	N
Waste-related facilities	N
Fuel Dealers	N
Petroleum and natural gas production	N
Surface mining	N
Animal Services	N - Boarding

	P - All other uses allowed

Details on the uses and activities are found in [SRC Chapter 400](#) which is linked to here and will be entered into the record.

4. **Additional Resources used for Goal 5 Findings**

Goal 5 findings related to Mill Creek (a stream) are on Pages 17, 19-20, and Pages 26 – 28 (Also, Goal 9 on Page 21) of the Staff Report dated November 21, 2023. Staff wanted to provide additional documentation and evidence which was referenced in the Staff Report. Every Comprehensive Plan Map Amendment is required to address Statewide Planning Goals even if the Salem Revised Code isn't in-line with the State Regulations. Statewide Planning Goal 5 reads as follows:

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.

Recently, the City Council, on advice from the Planning Commission, has directed staff to initiate an update to the Comprehensive Plan and Salem Revised Code to be consistent with the Statewide Planning Goal regarding Goal 5, specifically riparian protections. In an effort to be consistent with Goal 5, many documents were reviewed and relied on to develop the recommended conditions of approval. Those documents are briefly described below with links to the actual document and will be entered into the record.

The 2019 Mill Creek Basin Plan, adopted as part of the [2020 City of Salem Stormwater Master Plan](#), provides detailed analysis of the flood impacts of Mill Creek in the City of Salem. Mill Creek is the largest creek basin within the City of Salem and provides a significant amount of floodwater storage within its floodplain boundaries.

Staff is proposing no-development in the Riparian Corridor based on many documents, primarily guidance from the [Urban Riparian Inventory & Assessment Guide.1998. Pacific Habitat Services, Inc. Prepared for: Oregon Division of State Lands. Salem, Oregon.](#) (URIAG Procedure)

In addition, the [Endangered Species Act \(ESA\) Section 7\(a\)\(2\) Jeopardy and Adverse Modification of Critical Habitat Biological Opinion, ESA Section 7\(a\)\(2\) "Not Likely to Adversely Affect" Determination.2016. NOAA National Marine Fisheries Service. Seattle, Washington \(FEMA Biological Opinion\)](#). is a draft determination for planning purposes related to flood hazard impacts on proposed development in FEMA designated floodplain areas, riparian buffer zones, specifically relating to protection of Endangered Species. The portion of Mill Creek that runs through the property is mapped by the Oregon Department of State Lands as Essential Salmonid Habitat for its role in supporting two Endangered Special Act (ESA) listed fish, winter Steelhead and spring Chinook. The draft recommendation includes a 170-foot buffer abutting streams within the Floodplain and Floodway, among other recommendations.

Other studies and mapping for conservation, wildlife protection and Salmonid Habitat were relied on to write findings related to Goal 5, which can be found below.

5. ODFW Conservation Opportunity Areas (COA's) & Oregon Statewide Priority Wildlife Connectivity Areas (PWCA)

The following section and links provide additional information regarding ODFW Conservation Opportunity Areas (COAs), Oregon Statewide Priority Wildlife Connectivity Areas (PWCA), as well as Essential Salmonid Habitat Designations.

ODFW Conservation Opportunity Areas (COAs)

The entire parcel is within an area designated by the Oregon Conservation Strategy as the Salem Hills-Ankeny NWR Conservation Opportunity Area (or COA 77). The Oregon Conservation Strategy is an overarching state strategy for conserving fish and wildlife based on the best available scientific information. Conservation Opportunity Areas (COAs) are places where broad fish and wildlife conservation goals would best be met, and therefore indicate high value habitat. In urban areas, COAs represent areas where the opportunity to protect and restore wildlife movement across the landscape is highest. For additional information, please see:

[Oregon Conservation Strategy. 2016. Oregon Department of Fish and Wildlife, Salem, Oregon.](#)

Oregon Statewide Priority Wildlife Connectivity Areas (PWCA)

The Oregon Statewide Priority Wildlife Connectivity Areas (PWCA) map is a newer statewide mapping product released in 2023 that identifies parts of the landscape with the highest value for facilitating wildlife movement. PWCAs represent the parts of the landscape with the highest overall value for facilitating wildlife movement. Region PWCAs, such as the green area at the bottom of the property, are large contiguous areas and represent the highest-value habitat for facilitating species movement through the state. Steppingstones, such as that at the north of the property, represent remnant areas of intact habitat within otherwise developed landscapes that may help facilitate wildlife movement in urban areas. On this property, the PWCAs are located at the north and south extents of the property and are connected by Mill Creek. By providing a broader riparian corridor along Mill Creek we can help to protect wildlife connectivity between these PWCA while also protecting portions of the PWCAs themselves.

COAs and PWCAs are both part of the Oregon Conservation Strategy, which was developed to guide voluntary conservation actions in Oregon. In the absence of a City-specific wildlife habitat inventory, it allows us to identify habitat areas that should be protected in accordance with goals N1.1, N1.11 and N1.12 of the Salem Area Comprehensive Plan.

For more information, please see:

[Priority Wildlife Connectivity Areas. 2023. Oregon Department of Fish and Wildlife, Salem, Oregon.](#)

Essential Salmonid Habitat

Mill Creek is mapped by the Oregon Department of State Lands as Essential Salmonid Habitat for its role in supporting two Endangered Special Act (ESA) listed fish, winter Steelhead and spring Chinook. The creek runs through the center of the property from south to north and is currently vegetated with a mix of native and non-native species. The existence and persistence of vegetation and unconfined floodplain in proximity to Essential Salmonid Habitat streams is essential to fish survival and productivity and is critical in supporting suitable instream conditions necessary for the survival and recovery of these species. Methods for determining appropriate riparian buffers vary, but long-established Urban Riparian Inventory & Assessment Guide can assist in determining the appropriate buffer width here. OR Department of State Lands developed this protocol in 1998 to help cities comply with Statewide Planning Goal 5 for Riparian Corridors. In general terms, the URIAG method uses the average height at maturity of the dominant tree species to determine the

distance to outer riparian boundary. Application of this methodology would result in a maximum riparian corridor width of 120 feet from each stream bank.

In order to comply with ESA protections for endangered salmon and steelhead in the Oregon, FEMA has proposed that local communities establish a 170-foot riparian buffer zone, which is also based on dominant riparian tree height. The main difference in the URIAG and FEMA's method for determining buffer width is that URIAG uses the **average** height of the dominant riparian tree at maturity and FEMA used the **maximum** heights of dominant riparian tree species to come up with a riparian corridor width that would be protective enough to apply to all ESA streams in Oregon. In their Biological Opinion, NOAA found that this proposed buffer appears to provide nearly all of the potential wood and shade functions associated with an adjacent channel, provided the channel does not move and buffer areas are allowed to establish or maintain wood vegetation.

For more information, please see:

[Essential Salmonid Habitat Map. 2023. Oregon Department of State Lands. Salem, Oregon.](#)

Endangered Species Act (ESA) Section 7(a)(2) Jeopardy and Adverse Modification of Critical Habitat Biological Opinion, ESA Section 7(a)(2) "Not Likely to Adversely Affect" Determination. 2016. NOAA National Marine Fisheries Service. Seattle, Washington.

<https://media.fisheries.noaa.gov/2022-01/2016-04-14-fema-nfip-nwr-2011-3197.pdf>

6. Clarification on Recommended Conditions of Approval

The applicant addresses 'Condition 1' on Page 4 of their most recent response (**Attachment A**). The applicant provides information about SRC 230 regulations and states the condition as written 'creates a very real potential for mischief...'

Condition 1: Prior to ground disturbing activity, the applicant shall provide evidence of completed consultation with the Oregon SHPO and the Tribes and demonstrated compliance with SRC 230.105, Preservation of Archaeological Resources.

Due to the location of the property and proximity to Mill Creek the property may contain archeological sensitive areas, and the entire subject property is within the Historic and Cultural Resources Protection Zone (CRPZ). Under Oregon State Law (ORS 97.740, ORS 358.905-358.651, ORS 390.235, and OAR 736-051-0090) significant archaeological sites are protected on all non-federal public and private lands. Significance is based upon the potential of an archaeological site to be eligible for inclusion on the National Register of Historic Places, which means the site has the potential to possess important archaeological information about our prehistoric and historic history. Sites within Salem's CRPZ are considered significant until their eligibility can be evaluated through archaeological testing as defined in Oregon's Archaeology Field Guidelines. In Oregon, an archaeological site is defined as any location with physical remains of past human activity that is at least 75 years old.

There are eight known archaeological sites and 20 archaeological isolates within the proposed development area. The archaeological team from the University of Oregon who completed the initial archaeological survey of the former Mill Creek Correctional Facility site stated that: "...in the absence of formal testing, recorded site areas should be buffered by a no-work perimeter (50 meters is recommended), to insure that anticipated excavation areas do not inadvertently damage archaeological resources that might be present. If work in closer proximity to sites is considered necessary, formal testing should be conducted to identify clear site boundaries." (SHPO Biblio Report #18425 34MA 00179)

ORS 390.235 prohibits filling areas known to contain historic resources without first obtaining an archaeological permit. Given the sensitivity of this site, introducing new fill on top of the existing archaeological site does in fact constitute an alteration which requires both an archaeological permit under ORS 390.235 as well as Clearance through the Oregon State Historic Preservation Office (SHPO) to ensure that the methodology utilized to introduce and distribute the fill across the top of the known archaeological sites and isolates does not adversely impact these known archaeological resources. The Oregon State Archaeological Field Guidelines provide guidance regarding how subsurface testing shall be completed in areas where fill has been placed over native soils where archaeological sites are known to exist. The applicant's consultation with the SHPO and the Tribes will assist in development of a testing plan to confirm the boundaries and depth of each known site as well as to confirm the proposed site improvements will not adversely impact these sites. Physical remains can be found within either disturbed fill or intact native soils and can include (but not limited to) remains of indigenous features like camas ovens or indigenous artifacts such as stone tools, obsidian flakes. Physical remains can also potentially include (but not limited to) historic features such as portions of early dwellings or domestic debris (bottles, cans) or bricks.

As a Certified Local Government (CLG) the City of Salem is responsible for ensuring that all local, state and federal laws related to the identification and preservation of archaeological and historically significant sites are upheld within our jurisdiction. Therefore, to ensure compliance with Oregon State law, any land use approvals for property within the CRPZ typically include a condition of approval clearly stating that it is the applicant's responsibility to comply with local, state and federal laws ensuring that there will be no adverse impact to historic or archaeological resources as a result of the proposed development. Therefore, it is the responsibility of the applicant to consult with the SHPO and complete any necessary archaeological testing in order to verify that there will be no adverse effect to archaeological resources as a result of the ground disturbance proposed during the ground disturbing activity associated with the proposed project. Prior to demolition of existing structures, SHPO may also require additional consultation and Historic Clearance approval under ORS 358.653 demonstrating that the existing structures that are fifty years old or older are not historically significant, demonstrating compliance with Goal 5.

The condition as written is applied to many development activities and is intended to ensure the City of Salem's compliance with CLG requirements to ensure local, state and federal laws related to the identification and preservation of historic and archaeological sites are upheld, and to acknowledge the regulations of the City of Salem, SRC Chapter 230, State of Oregon regulations and Federal rules and regulations.

No part of *Condition 1* is intended to further regulate beyond the City of Salem, SRC Chapter 230, State of Oregon SHPO regulations and Federal rules and regulations. In other words, the City, State, and Federal rules regarding archeological compliance apply with or without this condition; the condition is intended to put the applicant on notice of future permit requirements, not to impose additional requirements or restrictions.

No Revision to this Condition is recommended by staff. Due to the condition added above, this condition will be re-numbered to Condition 2.

Condition 4 **2**: Prior to ground disturbing activity, the applicant shall provide evidence of completed consultation with the Oregon SHPO and the Tribes and demonstrated compliance with SRC 230.105, Preservation of Archaeological Resources.

- *Condition 2: Prior to issuance of any development permits, provide a certification by a registered professional civil engineer demonstrating through hydrologic and hydraulic analysis, that the proposed development shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.*

Mill Creek runs through the center of the property from south to north. The Federal Emergency Management Agency (FEMA) floodplain maps designate “AE” floodway and floodplain on the subject property.

The 2019 Mill Creek Basin Plan, adopted as part of the 2020 City of Salem Stormwater Master Plan, provides detailed analysis of the flood impacts of Mill Creek in the City of Salem. Mill Creek is the largest creek basin within the City of Salem. A floodway as defined in SRC Chapter 601 is designated along Mill Creek. Subject to the provisions of SRC 601.075(d)(1), encroachments including fill, new construction and other development are prohibited. The condition of approval is to ensure any development permits does not adversely impact the current storage capacity of the Floodplain along Mill Creek.

No Revision to this Condition is recommended by staff. Due to the condition added above, this condition will be re-numbered to Condition 3.

Condition ~~2~~**3**: Prior to issuance of any development permits, provide a certification by a registered professional civil engineer demonstrating through hydrologic and hydraulic analysis, that the proposed development shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- *Condition 3: A wetland delineation with Oregon Department of State Lands (DSL) concurrence shall be submitted to the City prior to issuance of any development permits.*

According to the Salem Keizer Local Wetland Inventory (LWI) there are wetlands mapped on this property, and the presence of the creek, floodway, and mapped hydric soils indicate that wetlands may be more extensive than shown on the LWI. In order to ensure development does not occur in a regulated wetland without appropriate permitting, a delineation is required at the time of development for each area being developed.

No Revision to this Condition is recommended by staff. Due to the condition added above this condition will be re-numbered to Condition 4.

Condition ~~3~~**4**: A wetland delineation with Oregon Department of State Lands (DSL) concurrence shall be submitted to the City prior to issuance of any development permits.

- *Condition 4: Prior to issuance of any development permits, the applicant shall establish a Riparian Corridor Buffer along Mill Creek based on a site-specific assessment using the Oregon Department of State Land's (DSL) Urban Riparian Inventory and Assessment Guide methodology. This study shall be conducted by a qualified wetland/biological consultant. The width of the buffer should be no less than 120-feet from top of bank or a distance established by a qualified biological consultant utilizing the Urban Riparian Inventory and Assessment Guide (DSL 1998), whichever is greater.*

After the staff report was published, Staff noticed an error in the wording of Condition 4 that is inconsistent with the documents listed above. The URIAG Procedure methodology for determining the width of the ‘Riparian Corridor Buffer’ it was determined that that assessment would determine an accurate buffer and the need for the condition to have ‘whichever is greater’ is not necessary. In conversation with the applicant, Staff drafted a revised condition. The condition was not published but the applicant addressed the draft condition in their testimony (**Attachment A**).

The draft FEMA Biological Opinion is for planning purposes and is related to flood hazard impacts within FEMA designated floodplain areas & riparian buffer zones. The draft plan recommends a 170-foot buffer abutting streams within the regulated floodplain areas. The City recognizes the

FEMA Biological Opinion is a draft plan for planning purposes. Therefore, staff relied on Urban Riparian Inventory and Assessment Guide (DSL 1998) for guidance on a distance to protect the Riparian Corridor, which is 120-feet, or a distance determined by a site-specific assessment using the same guidance.

A map depicting the possible Riparian Corridor from the original condition of approval (12-feet) along with the Floodway can be found in **Attachment C**. The map is based on an *estimated* top of bank, which will need to be further evaluated at the time of development. The map is not intended to be adopted as the Riparian Corridor Buffer but is for information purposes. An additional map depicting the existing Floodplain, which is larger than the Floodway shown in the previous attachment, can be found in **Attachment D**.

The applicant has provided additional written testimony (**Attachment A**), which states that Condition 4 cannot be applied. The applicant provides written argument that the City of Salem is in compliance with Goal 5 by the Comprehensive Plan by being acknowledged by the State of Oregon. Continued argument that SRC 808 and the definition of 'Riparian Corridor' is acknowledged by the State of Oregon for Goal 5, therefore meeting the criteria of SRC 64.025(e)(D) and 265.005(e)(D).

Staff reviewed the applicant's testimony and determined that mitigation of the proposal related to the natural resource could be accomplished with the restricted Uses listed in Condition 1 and a 50-foot riparian corridor instead of the previously proposed 120-foot buffer. The two conditions, together, can meet the intent of the larger Riparian Buffer. Due to the condition added above, this condition will be re-numbered to Condition 5. Therefore, the following condition is recommended by staff:

Condition 4 5: Prior to issuance of any development permits, the applicant shall establish and identify a Riparian Corridor along Mill Creek of 50-feet from the top of bank.

- *Condition 5: No development activity, other than land divisions and reconfigurations, is permitted in the established Riparian Corridor Buffer along Mill Creek, except restoration as defined in SRC Chapter 808 and installation of soft surface trails consistent with the Comprehensive Park System Master Plan.*

A change is proposed to clarify the term of Riparian Corridor and to be consistent with SRC 808 standards. Due to the condition added above this condition will be re-numbered to Condition 6.

Revised Condition 5 6: No development activity, other than land divisions and reconfigurations, is permitted in the established Riparian Corridor ~~Buffer~~ along Mill Creek, except restoration as defined in SRC Chapter 808 and installation of soft surface trails consistent with the Comprehensive Park System Master Plan.

- *Condition 6: No tree or vegetation removal, without an approved Tree removal Permit under SRC 808, within the established Riparian Corridor ~~Buffer~~.*

The City of Salem tree code protects native vegetation and trees within a current 50-foot Riparian Corridor. The condition is to ensure the applicant has the ability to apply for the same process with a greater Riparian Corridor. The intent is to preserve native vegetation and trees within the recommended 120-foot buffer or distanced determined by a *qualified biological consultant utilizing the Urban Riparian Inventory and Assessment Guide (DSL 1998)*.

- *Condition 7: The transportation impacts from the 390.5-acre site shall be limited to a maximum cumulative total of 1,890 PM peak hour and/or 18,820 daily trips.*

The TPR analysis submitted to address Transportation Planning Rule (OAR 660-012-0060). The proposed trip cap is based on reasonable worst-case trip generation of the existing zoning district, which has been reviewed by the Assistant City Traffic Engineer. There is no proposed change to Condition 7.

No Revision to this Condition is recommended by staff. Due to the condition added above this condition will be re-numbered to Condition 8.

Condition ~~7~~ **8**: The transportation impacts from the 390.5-acre site shall be limited to a maximum cumulative total of 1,890 PM peak hour and/or 18,820 daily trips.

7. Steet Classifications

There are several streets bisecting the subject property. As discussed in the Staff Report dated November 21, 2023, the subject property has tentative approval for a five-lot subdivision. There were multiple conditions of approval for right-of-way dedication, street improvements and potential off-site improvements related to trip generation.

Questions were raised about the street classifications in the area and the cross-sections for each of those streets. The subject property contains or abuts:

- Turner Road SE: This street is designated as a Major Arterial Street in the Salem TSP. The standard for this street classification is a 68-foot-wide improvement within a 96 foot-wide right-of-way, as shown in **Attachment E**.
- Gath Road SE: This street is designated as a Collector Street in the Salem TSP. The standard for this street classification is a 30 to 40-foot-wide improvement within a 60 foot-wide right-of-way as shown in **Attachment E**.
- Deer Park Drive SE: This street is designated as a Local Street in the Salem TSP. The standard for this street classification is a 30-foot-wide improvement within a 60 foot-wide right-of-way as shown in **Attachment E**.

8. Middle Housing Setback Requirement

Oregon House Bill 2001, passed by the Oregon State Legislature in 2019, mandating specific changes for large cities such as Salem related to Middle Housing. In March 2022, Salem adopted code changes affecting residential zones allowing single family detached dwellings (RA, RS, & RM-I).

The City of Salem conducted their Goal 5 process when adopting the Comprehensive Plan, which was eventually acknowledged. Since then, Goal 5 was revised in 1988 and 1996; the City has not conducted the work or adopted the protection regulations to comply with the updated Goal 5 rules. Since many jurisdictions are no longer required to enter into periodic review, many local plans and codes are not consistent with the current Goal 5 standards, including the City of Salem.

During development of Oregon House Bill 2001, it was noted that local jurisdictions were not consistent with Goal 5 and the development requirements outlined in OAR 660, which were adopted to protect Goal 5 Resources, including a 100-foot setback to a riparian corridor. The addition of the 100-foot setback is intended to further apply Goal 5 for those Cities who have not updated regulations and inventories related to Goal 5 prior to 1996, specifically Salem.

Earlier this year, Planning Commission and City Council directed staff to update to the Salem Comprehensive Plan, Goal 5 Riparian Areas inventory and regulations.

Since the City has not adopted a new Goal 5 inventory for Riparian Areas, the current regulation in the Salem Revised Code is not consistent with the current ORS related to Goal 5.

Chapter 808 does not prevent removal of trees or native vegetation from Riparian Corridor nor prevent building and grading but requires that the process is carefully reviewed and regulated, and appropriate permits obtained. Substantive provisions of SRC 808.001, implement its purpose. Compliance with the substantive requirements of SRC Chapter 808, implement the purpose of the ordinance. The permitting requirements, and associated standards and regulations, enact, and enforce the purpose of SRC 808.

The developer must obtain a permit for any work to be performed with the Riparian Corridor. This assures compliance with the requirements of SRC Chapter 808, assures compliance with its purpose, and assures compliance with its specific standards and regulations.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt the facts and findings of the staff report and **APPROVE** the following actions for the subject property that is approximately 400 acres in size and located at 5465 Turner Rd SE (Marion County Assessor’s Map and Tax Lot Numbers: 082W17 / 400):

- A. APPROVE Minor Comprehensive Plan Map Amendment from Amendment from "Community Service - Government" to "Single Family Residential", "Industrial Commercial", "Industrial" and "Mixed Use"; and
- B. APPROVE Zone Change from PS (Public Service) to RS (Single Family Residential), MU-I (Mixed Use – I), IC (Industrial Commercial) and IG (General Industrial) subject to the following **revised** conditions of approval:

Condition 1: The following uses/activities allowed within the IC (Industrial Commercial) zone shall be prohibited uses/activities allowed on the subject property:

Industrial Commercial Zoning District	
Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Commercial entertainment—outdoor	N
Major event entertainment	N
Funeral and Cremation Services	N
Building and grounds services and construction contracting	N

Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General Manufacturing	N
Data Center	N
Fuel Dealers	N
Waste Related Facilities	N
Petroleum and natural gas production	N
Surface mining	N
Animal Services	N - Boarding
	P - All other uses allowed

General Industrial Zoning District	
Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Major event entertainment	N
Building and grounds services and construction contracting	N
Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General Manufacturing	N
Heavy Manufacturing	N
Waste-related facilities	N
Fuel Dealers	N
Petroleum and natural gas production	N
Surface mining	N
Animal Services	N - Boarding
	P - All other uses allowed

- Condition 2:** Prior to ground disturbing activity, the applicant shall provide evidence of completed consultation with the Oregon SHPO and the Tribes and demonstrated compliance with SRC 230.105, Preservation of Archaeological Resources.
- Condition 3:** Prior to issuance of any development permits, provide a certification by a registered professional civil engineer demonstrating through hydrologic and hydraulic analysis, that the proposed development shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- Condition 4:** A wetland delineation with Oregon Department of State Lands (DSL) concurrence shall be submitted to the City prior to issuance of any development permits.
- Condition 5:** Prior to issuance of any development permits, the applicant shall establish and identify a Riparian Corridor along Mill Creek of 50-feet from the top of bank.
- Condition 6:** No development activity, other than land divisions and reconfigurations, is permitted in the established Riparian Corridor along Mill Creek, except restoration as defined in SRC Chapter 808 and installation of soft surface trails consistent with the Comprehensive Park System Master Plan.
- Condition 7:** No tree or vegetation removal, without an approved Tree removal Permit under SRC 808, within the established Riparian Corridor.
- Condition 8:** The transportation impacts from the 390.5-acre site shall be limited to a maximum cumulative total of 1,890 PM peak hour and/or 18,820 daily trips.

Attachments:

- A. Additional Written Testimony from Applicant
- B. Written Comments Submitted
- C. Estimated 120-foot setback and Floodway
- D. Existing Floodplain
- E. Street Classification Cross Sections

Prepared by Olivia Dias, Current Planning Manager



Wendie L. Kellington
P.O. Box 2209
Lake Oswego Or
97035

Phone (503) 636-0069
Mobile (503) 804-0535
Email: wk@klgpc.com

December 27, 2023

Via Electronic Mail

Fred Wilson
Assistant City Attorney
Salem City Attorney's Office
555 Liberty St SE Ste 225
Salem OR 97301

RE: Clutch Industries, City of Salem Case Number 22 124542 00 PLN

Dear Fred:

Thank you for taking my call on Friday. As you know, this firm represents Clutch Industries, the entity developing the old Mill Creek prison site. They have worked cooperatively with staff and resolved almost everything, but particular proposed conditions of approval are extremely problematic. The below are our concerns regarding proposed condition of approval #4. We also write to express concern about proposed condition #1. The matter is time sensitive as it will go forward to the planning commission on January 9, 2024. We hope to resolve the conditions issues in advance of the planning commission hearing.

Proposed Condition 4

Proposed condition #4 states the following:

Revised Condition 4: *Prior to issuance of any development permits, the applicant shall establish a Riparian Corridor Buffer along Mill Creek of 120-feet from the top of bank or provide a site-specific assessment using the Oregon Department of State Land's (DSL) Urban Riparian Inventory and Assessment Guide methodology. This study shall be conducted by a qualified wetland/biological consultant. The width of the buffer should be ~~no less than~~ 120-feet from top of bank or a distance established in a study prepared by a qualified wetland/biological consultant utilizing the Urban Riparian Inventory and Assessment Guide (DSL 1998), ~~whichever is greater.~~*

As you know, the City's code imposes no requirement for any "Riparian Corridor Buffer" and provides no basis for imposing one via conditions of approval. Rather the City's code imposes a "Riparian Corridor", that is expressly defined, within which development is significantly restricted. As noted, the City's Code defines what that riparian corridor is and here it constitutes a total of 50 feet on either side of Mill Creek, not 120-feet on either side (a total of 240-feet) as is proposed in the disputed condition:

Riparian corridor means the area adjacent to a waterway, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. The riparian corridor boundary is measured:

- (a) 50 feet horizontally from the top of bank on each side of a waterway with less than 1,000 cubic feet per second average annual stream flow; and
- (b) 75 feet horizontally from the top of bank on each side of a waterway with 1,000 or more cubic feet per second average annual stream flow (Willamette River).

Staff in its reports and discussions with the applicant, has always claimed that the condition is designed to further Goal 5.¹ However, that cannot be right; the City plan and zoning ordinance is acknowledged to comply with Goal 5 and contains a Goal 5 acknowledged “riparian Corridor” and those acknowledged City “riparian corridor” rules provide no such “riparian corridor buffer.” The City has in fact recognized that it has acknowledged rules implementing Goal 5 in other plan amendment and zone change contexts. For example, in Ord 5-23 (regarding overlay zones), the City claimed Goal 5 compliance with reference to its acknowledged code; same for Ord 15-23 (amending the TSP).

Additionally, it is well settled that an amendment to an acknowledged plan or code “may only be reviewed for compliance with a land use goal if the amendment implicates that land use goal.” *Nicita v. City of Oregon City*, 317 Or App 709, 716 (2022) *review denied*, 370 Or. 404, 518 P.3d 944 (2022). In *Nicita*, the court explained that a goal is implicated only if the proposed plan amendment itself affects the goal directly or indirectly. *Id.* In *Nicita*, petitioner argued that the proposal implicated Goal 6 and the court disagreed explaining:

“The city's compliance with Goal 6 was contained in other planning the city has already done that set the planned future development in the city. To the extent the city is not compliant with Goal 6 with respect to toxics standards, that noncompliance is not a consequence of the [adoption of a city storm plan and design standards]. With respect to what is in [that proposal], [petitioner] fails to explain how recommending capital improvement projects in the [proposed storm plan] to improve water quality or creating design standards to control stormwater runoff from development and redevelopment *** results in city noncompliance with Goal 6.” *Id.*, 317 Or. App. 717.

¹ We pause here to note that Condition 4 cannot be said to be supported by City rules regarding floodways or floodplains either. Those are separately regulated in the Salem Unified Code Chapter 601 – which implements Goal 7 - and nothing in that Salem Unified Code chapter provides authority for the City proposed 240-foot “riparian corridor buffer.” Rather, Chapter 601.075(d)(1) prohibits certain development in floodways which are mapped per the City code. Whether through the ORS 215.416(8) “codification rule” or the *Nolan v. California Coastal Comm’n*, 483 US 825 (1987), prong of the unconstitutional conditions analysis requiring that conditions of approval bear an “essential nexus” to an approval standard, or a myriad of other rules, City staff is simply not at liberty to demand conditions of approval that are not supported by the City’s acknowledged code or plan.

The court of appeals held similarly in *Central Oregon Landwatch v. Deschutes County*, 301 Or App 701 (2020), deciding that Deschutes County was not obligated to revisit its determination that land was not inventoried as agricultural land under Goal 3, because the alleged goal defect was not the result of the proposed plan amendment – which is the same situation as here. Here, the proposal does not implicate any City Goal 5 inventoried, or City designated significant Goal 5 resource. Like these cases, the proposal will comply with the City’s acknowledge Goal 5 riparian corridor protective rules with a 50-foot riparian corridor from the top of the bank. The proposal does not directly or indirectly cause the City to violate any goal. There is just nothing about the proposal that puts the City out of compliance with Goal 5 (or any other goal) and the City has never claimed otherwise.

Furthermore, by the express terms of Goal 5, Goal 5 does not apply directly to the Clutch Industries proposal in any case. OAR 660-023-0250(3) specifies the situations in which the City may apply Goal 5 directly to a PAPA and none of them apply here (viz.), the proposal does not create or amend a resource list or plan or land use regulation to protect Goal 5 resources; does not allow a new use that could conflict with a particular significant Goal 5 resource site; and does not amend a UGB. Further, the idea that the City is out of compliance with Goal 5 is mistaken, given the City only recently (2022) adopted its current plan and ordinance provisions which were then all acknowledged to comply with all Goals, including Goal 5.

Moreover, even if Goal 5 did apply directly, the existing Salem regulatory program complies with the Goal 5 rule’s “safe harbor” of a 50-foot riparian corridor. OAR 660-023-0090(5)(b). It is reasonable to infer that the City’s Goal 5 program adopts the Goal 5 “safe harbor” because it in fact duplicates it. In this regard, OAR 660-023-0090(6) tells local governments to either adopt the safe harbor or to go through the ESEE process. It is well-known that the ESEE process is cumbersome, expensive and time consuming for local governments, and that simply adopting Goal 5 “riparian corridor” safe harbors is none of those things. As a result, many, probably most local governments in Oregon, adopt the Goal 5 rule riparian corridor safe harbor.

This is what the City code reflects – the Goal 5 rule safe harbor for riparian corridors. In this regard, the Salem Revised Code (SRC) 808 expressly regulates “riparian corridors.” Its “purpose is the “provide for the protection of *** trees and native vegetation in riparian corridors ****.” That protection area is 50-feet on either side of the top of the bank, not 120-feet on either side. All of the provisions in SRC 808 address requirements within the “riparian corridor” which is as noted a defined term in the SRC as provided above. Again, there is nothing to support the proposed condition that seeks to impose a “riparian corridor buffer” significantly beyond that codified, safe harbor, 50-foot distance.

Staff has suggested that the City’s SRC Chapter 808 should not have been acknowledged by LCDC because it does not comply with Goal 5 well enough, in their current view. In other words, staff has suggested that LCDC erred by acknowledging the City’s plan and land use regulations in 2022. However, that sort of collateral attack on the City’s acknowledged land use rules is not well taken as is plain from *Nicita* and *Central Oregon Landwatch*. It is beyond reasonable dispute that the arguments that the City wants to make (that its code should impose a

large “riparian corridor buffer”), can be advanced to support legislative changes to the current City code. But the time to challenge the City’s current land use program on that or any basis, was when it was adopted, not two years later. In this regard, there can be no reasonable dispute that the City’s adoption of its 2022 plan and zoning rule amendments were a land use decision. As you know, the court of appeals has recently underscored that finality in land use decision making is significant. In *Johnson v. Landwatch Lane County*, 327 Or App 485 (2023), the court agreed with LUBA that Lane County could not revoke prior land use approvals even if they were obtained *by fraud*. The court explained that finality in land use decision making is king and final land use decisions simply cannot be challenged years later.

The proposed condition does not meet the ORS 215.416(8) required “codification rule”, but rather is nothing more than impermissible ad hoc amendment to the City code to add a standard that is not there. In this regard, amendments to the City code by interpretation or condition are strictly prohibited regardless of the codification rule. *Loud v. City of Cottage Grove*, 26 Or LUBA 152 (1993).

Finally, as noted, City staff have never attempted to carry the City’s *Nollan* and *Dolan v. City of Tigard* 512 US 374, 391, 398 (1994), burden to demonstrate that the proposed condition meets the tests for unconstitutional conditions. Respectfully, even if they tried, they could not demonstrate the City’s burden is met here (*viz.*), they cannot demonstrate that there is any essential nexus between the proposed condition and any approval standard and cannot demonstrate that there is any rough proportionality between the impacts of the proposal and the demand for 240 feet of “riparian corridor buffer.” Therefore, Condition #4, if imposed, would violate the “unconstitutional conditions” doctrine. Similarly, denial of the proposal on the basis that the Applicant will not accede to Condition #4 would also be unconstitutional. In this regard, it is now well-settled that the City may not deny an application because the applicant exercises their constitutional right not to have unconstitutional conditions imposed. *Koontz v. St. John’s Water District*, 570 US 595 (2013).

Proposed Condition 1

Proposed condition 1 is problematic because it exceeds what the code requires and creates the very real potential for mischief, that could have a significant adverse effect on the developability and development of the site:

Condition 1: Prior to ground disturbing activity, the applicant shall provide evidence of completed consultation with the Oregon SHPO and the Tribes and demonstrated compliance with SRC 230.105, Preservation of Archaeological Resources.

Archeological resources are protected in SUC Chapter 230:

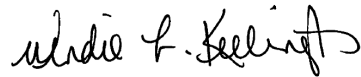
“Sec. 230.105. - Preservation of archeological resources. (a)Archeological resources shall be protected and preserved in place subject to the requirements of

federal, state, and local regulations, including the guidelines administered by the Oregon State Historic Preservation Office and ORS 358.905—358.961(b)A person may not excavate, injure, destroy, or alter an archaeological site or object or remove an archaeological object located on public or private lands unless that activity is authorized by a permit issued under ORS 390.235. A violation of this subsection is a misdemeanor.”

Those provisions do not prohibit filling areas known to contain historic resources. Those provisions prohibit only excavation, injuring, destroying or altering archaeological sites or objects. Similarly, “ground disturbing activity” is not prohibited by the City’s code. Rather, the City’s code regulates activity after ground disturbance occurs. The applicant is bound by SRC 230.105 already, no condition is needed to achieve that. Condition 1 should be removed altogether or should be amended to reflect the requirements of the applicable standard to not “excavate, injury, destroy or alter historic sites or objects” but should not be applied to “any ground disturbing” activity because the City code does not prohibit filling activities that do not have the listed deleterious consequences and are not triggered by mere “ground disturbing activity”.

I look forward to hearing from you. Thank you for your consideration and courtesies.

Very truly yours,



Wendie L. Kellington

WLK:wlk
CC: Clients
Britany Randall

Olivia Dias

From: PIKE Brandon <Brandon.PIKE@odav.oregon.gov>
Sent: Thursday, May 25, 2023 3:59 PM
To: Olivia Dias
Subject: ODAV Comments on City of Salem File No. CPC-ZC23-02

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon Olivia,

Thank you for providing the opportunity for the Oregon Department of Aviation (ODAV) to comment on file number(s): CPC-ZC23-02.

ODAV has reviewed the proposal and prepared the following comment(s):

1. In accordance with FAR Part 77.9 and OAR 738-070-0060, depending on the height and location of future development at this site, it may be required to undergo aeronautical evaluations by the FAA and ODAV. The aeronautical evaluations are initiated by the applicant providing separate notices to both the FAA and ODAV to determine if the proposal poses an obstruction to aviation safety. The applicant should receive the resulting aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.

Please reach out if you have questions or concerns.

Best,

BRANDON PIKE
OREGON DEPARTMENT OF AVIATION
 AVIATION PLANNER



OFFICE 503-378-2217 **CELL** 971-372-1339
EMAIL brandon.pike@odav.oregon.gov
3040 25TH STREET SE, SALEM, OR 97302
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Andrea Castañeda, Superintendent

November 8, 2023

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

RE: Land Use Activity Case No. CPC-ZC23-02, 5465 Turner Rd. SE

The City of Salem issued a Request for Comments for a Land Use Case as referenced above. Please find below comments on the impact of the proposed land use change on the Salem-Keizer School District.

IDENTIFICATION OF SCHOOLS SERVING THE SUBJECT PROPERTY

The School District has established geographical school attendance areas for each school known as school boundaries. Students residing in any residence within that boundary are assigned to the school identified to serve that area. There are three school levels, elementary school serving kindergarten thru fifth grade, middle school serving sixth thru eighth grade, and high school serving ninth thru twelfth grade. . The schools identified to serve the subject property are:

School Name	School Type	Grades Served
Lee	Elementary	K thru 5
Judson	Middle	6 thru 8
South Salem	High	9 thru 12

Table 1

SCHOOL CAPACITY & CURRENT ENROLLMENT

The School District has established school capacities which are the number of students that a particular school is designed to serve. Capacities can change based on class size. School capacities are established by taking into account core infrastructure (gymnasium, cafeteria, library, etc.) counting the number of classrooms and multiplying by the number of students that each classroom will serve. A more detailed explanation of school capacity can be found in the School District’s adopted Facility Plan.

School Name	School Type	School Enrollment	School Design Capacity	Enroll./Capacity Ratio
Lee	Elementary	298	475	63%
Judson	Middle	755	1,059	71%
South Salem	High	2,275	2,248	101%

Table 2

POTENTIAL ADDITIONAL STUDENTS IN BOUNDARY AREA RESULTING FROM APPROVAL OF LAND USE CASE

The School District anticipates the number of students that may reside at the proposed development based on the housing type, single family (SF), duplex/triplex/four-plex (DU), multi-family (MF) and mobile home park (MHP). The School District commissioned a study by the Mid-Willamette Valley Council of Governments in 2021 to determine an estimate of students per residence, for the Salem-Keizer area, in each of the four housing types. Since the results are averages, the actual number of students in any given housing type will vary. The table below represents the resulting estimates for the subject property:

School Type	Qty. of New Residences	Housing Type	Average Qty. of Students per Residence	Total New Students
Elementary	1,530 / 25	MF / SF	0.164 / 0.168	251 / 4
Middle			0.085 / 0.098	130 / 2
High			0.096 / 0.144	147 / 4

Table 3

POTENTIAL EFFECT OF THIS DEVELOPMENT ON SCHOOL ENROLLMENT

To determine the impact of the new residential development on school enrollment, the School District compares the school capacity to the current enrollment plus estimates of potential additional students resulting from land use cases over the previous two calendar years. A ratio of the existing and new students is then compared with the school design capacity and expressed as a percentage to show how much of the school capacity may be used.

School Name	School Type	School Enrollment	New Students During Past 2 yrs	New Student from this Case	Total New Students	School Design Cap.	Enroll./Cap. Ratio
Lee	Elem.	298	107	251 / 4	362	475	116%
Judson	Mid.	755	130	130 / 2	262	1,059	96%
South Salem	High	2,275	153	147 / 4	304	2,248	115%

Table 4

ESTIMATE OF THE EFFECT ON INFRASTRUCTURE – IDENTIFICATION OF WALK ZONES AND SCHOOL TRANSPORTATION SERVICE

Civic infrastructure needed to provide connectivity between the new residential development and the schools serving the new development will generally require roads, sidewalks and bicycle lanes. When developing within one mile of school(s), adequate pathways to the school should be provided that would have raised sidewalks. If there are a large number of students walking, the sidewalks should be wider to accommodate the number of students that would be traveling the

path at the same time. Bike lanes should be included, crosswalks with flashing lights and signs where appropriate, traffic signals to allow for safe crossings at busy intersections, and any easements that would allow students to travel through neighborhoods. If the development is farther than one mile away from any school, provide bus pullouts and a covered shelter (like those provided by the transit district). Locate in collaboration with the District at a reasonable distance away from an intersection for buses if the distance is greater than ½ mile from the main road. If the distance is less than a ½ mile then raised sidewalks should be provided with stop signs where students would cross intersections within the development as access to the bus stop on the main road. Following is an identification, for the new development location, that the development is either located in a school walk zone or is eligible for school transportation services.

School Name	School Type	Walk Zone or Eligible for School Transportation
Lee	Elementary	Eligible for School Transportation
Judson	Middle	Eligible for School Transportation
South Salem	High	Eligible for School Transportation

Table 5

ESTIMATE OF NEW SCHOOL CONSTRUCTION NEEDED TO SERVE DEVELOPMENT

The School District estimates the cost of constructing new school facilities to serve our community. The costs of new school construction is estimated using the Rider Levett Bucknall (RLB) North America Quarterly Construction Cost Report and building area per student from Cornerstone Management Group, Inc. estimates. The costs to construct school facilities to serve the proposed development are in the following table.

School Type	Number of Students	Estimate of Facility Cost Per Student*	Total Cost of Facilities for Proposed Development*
Elementary	251 / 4	\$83,655	\$21,332,025
Middle	130 / 2	\$101,069	\$13,341,108
High	147 / 4	\$118,482	\$17,890,782
TOTAL			\$52,563,915

Table 6

*Estimates based on average of Indicative Construction Costs from “RLB Construction Cost Report North America Q3 2023”

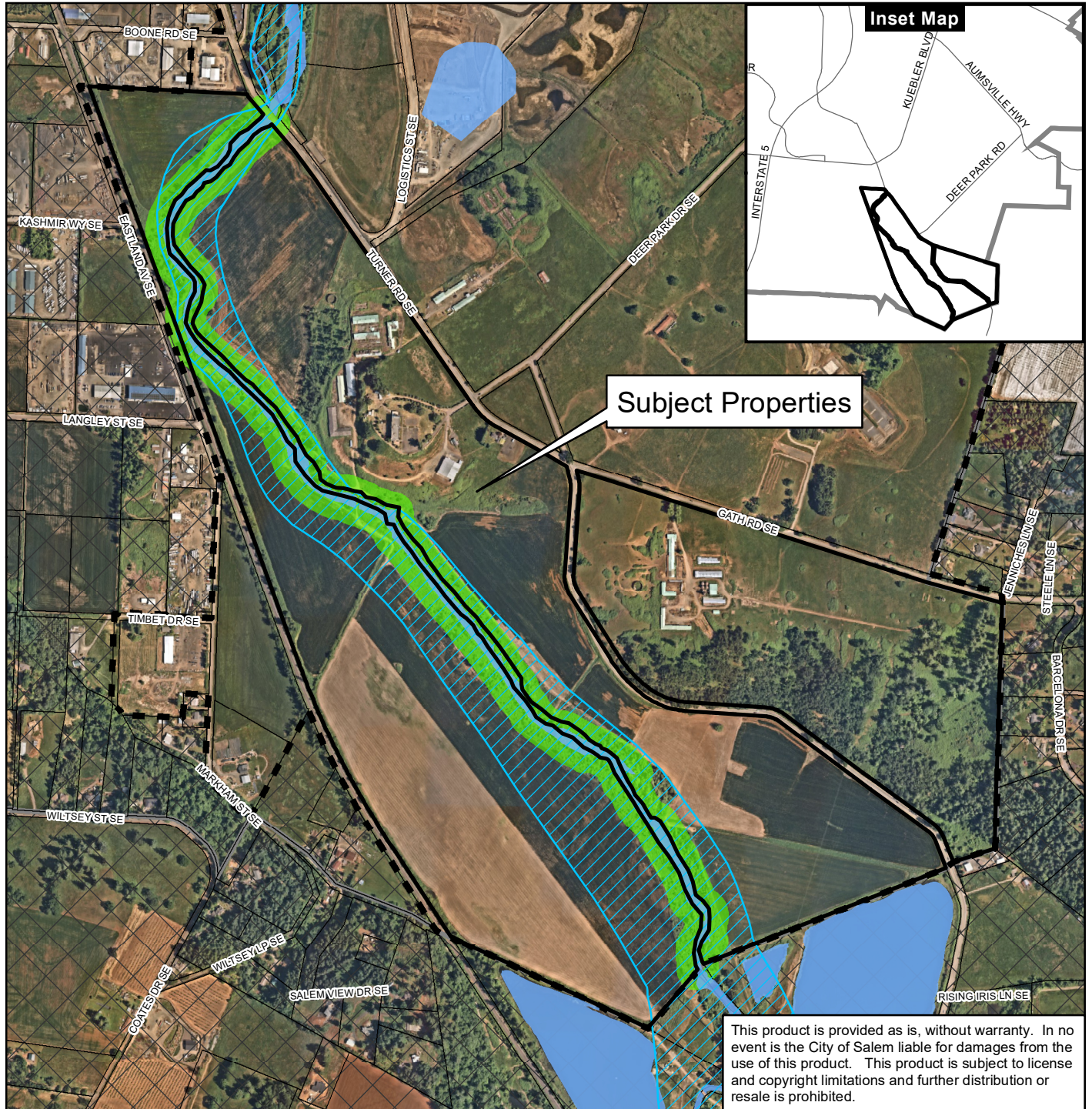
NOTE: Proposed zone change PS to RS area, has approximately 5 acres located inside of the Salem-Keizer School District with the remainder located outside of the Salem-Keizer School District boundary. Within the school district boundary we assumed 5 single family dwelling units per acre. Proposed zone change PS to MU-III has approximately 102 acres located inside of the Salem-Keizer School District with the remainder located outside of the Salem-Keizer School District boundary. Within the school district boundary, we assumed 15 multi-family dwelling units per acre.

Sincerely,

David Fridenmaker
Business and Support Services

c: Robert Silva, Chief Operations Officer, David Hughes, Director of Operations & Logistics, T.J. Crockett, Director of Transportation

Taxlot 082W170000400 Mill Creek Surface Water 120 Foot Buffer and Floodway



Legend

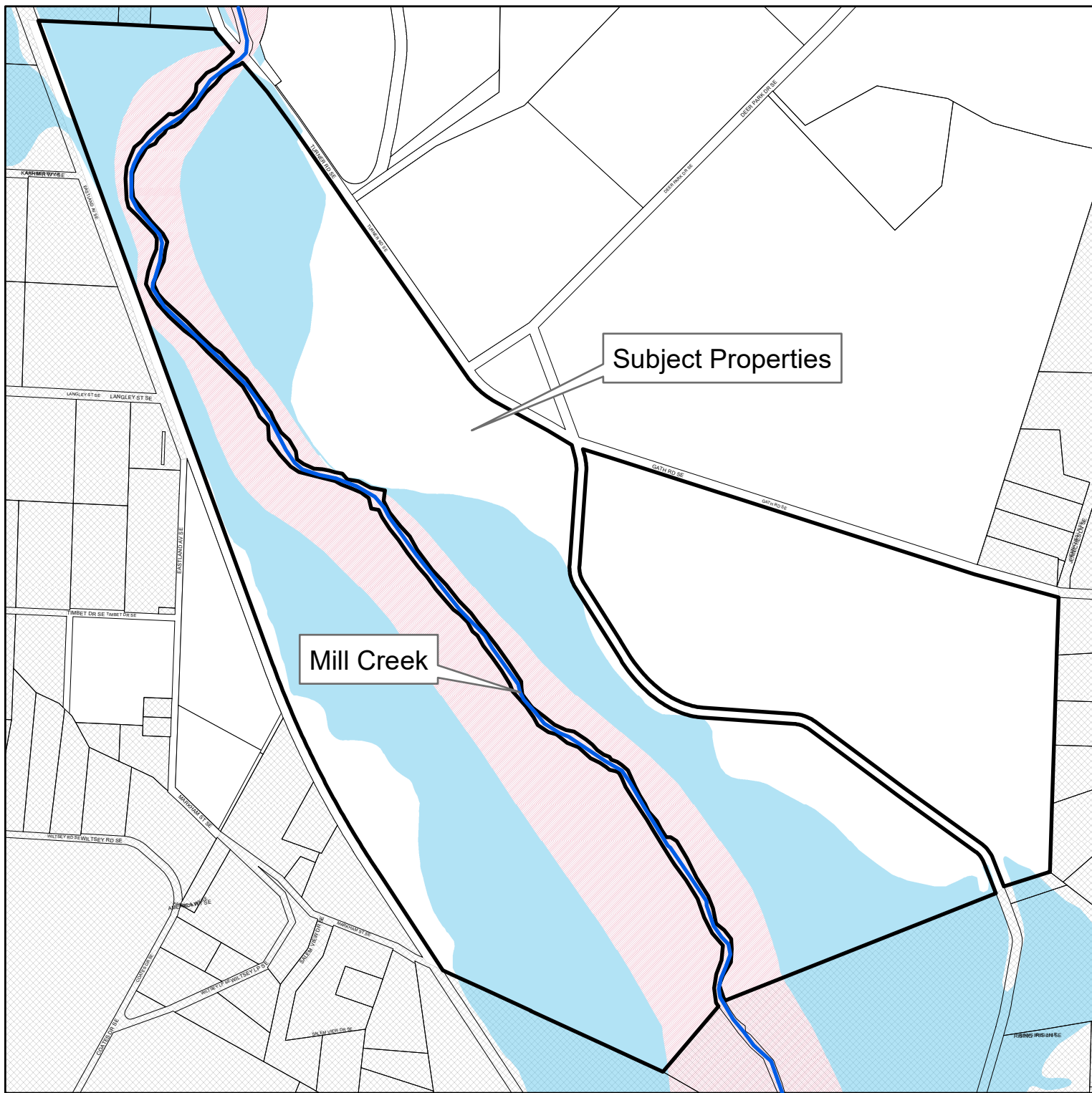
- Taxlots
- Surface Water
- Mill Creek Area Surface Water Polygons - 120 Foot Buffer
- Salem City Limits
- Floodway
- Urban Growth Boundary
- Outside Salem City Limits

0 250 500 1,000 Feet



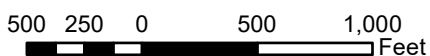
CITY OF Salem
AT YOUR SERVICE
 Community Development Dept.

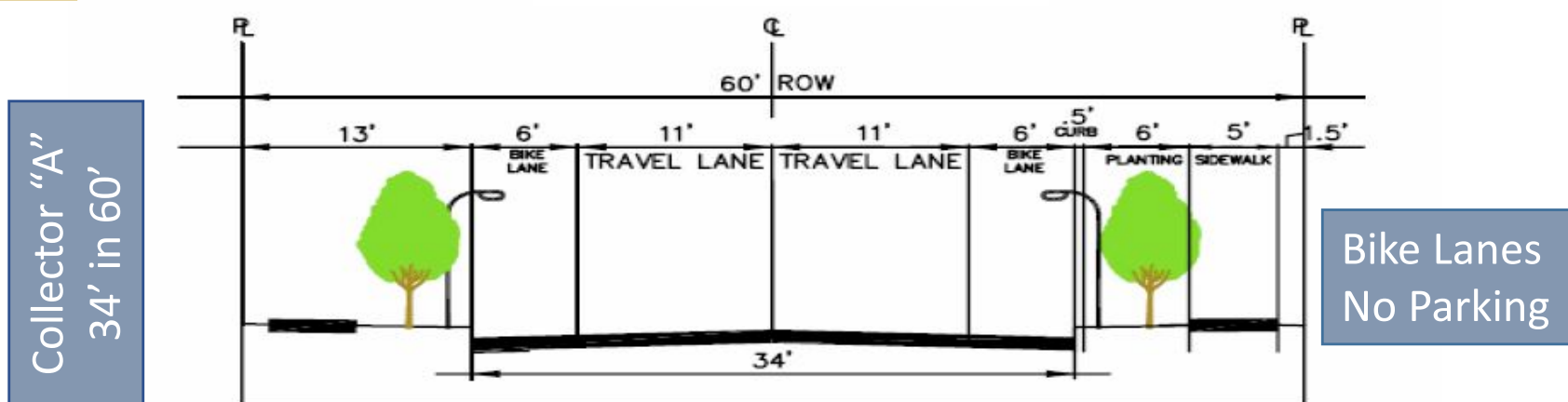
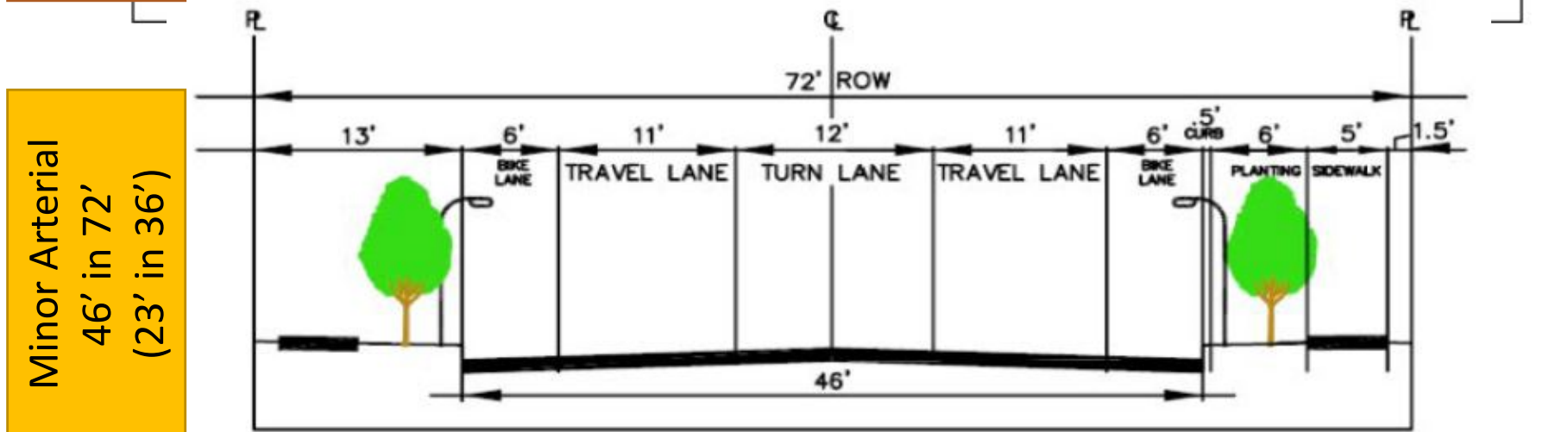
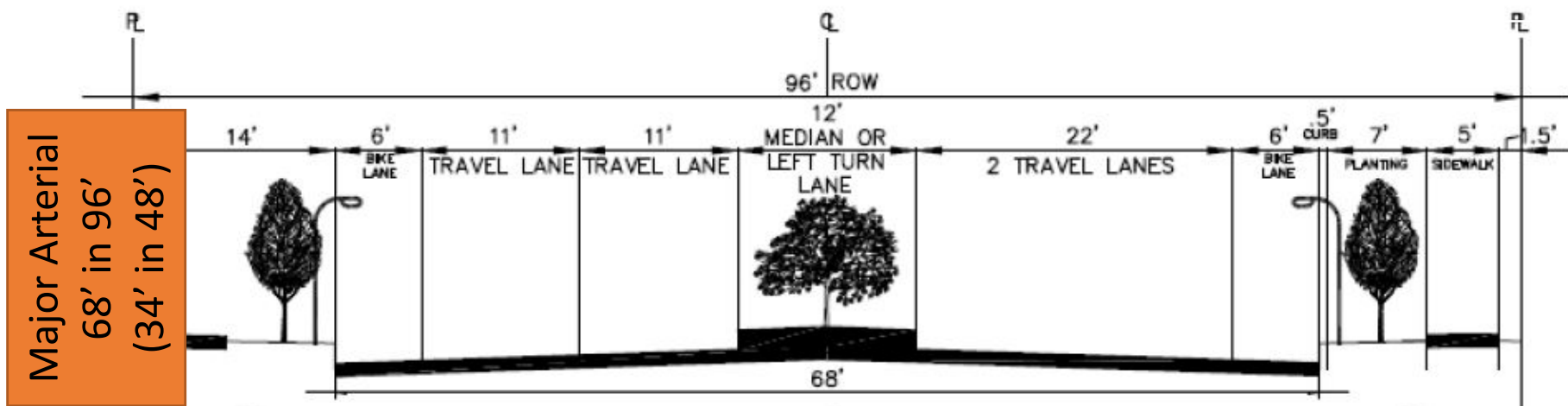
Taxlot 082W170000400 Mill Creek Floodplain



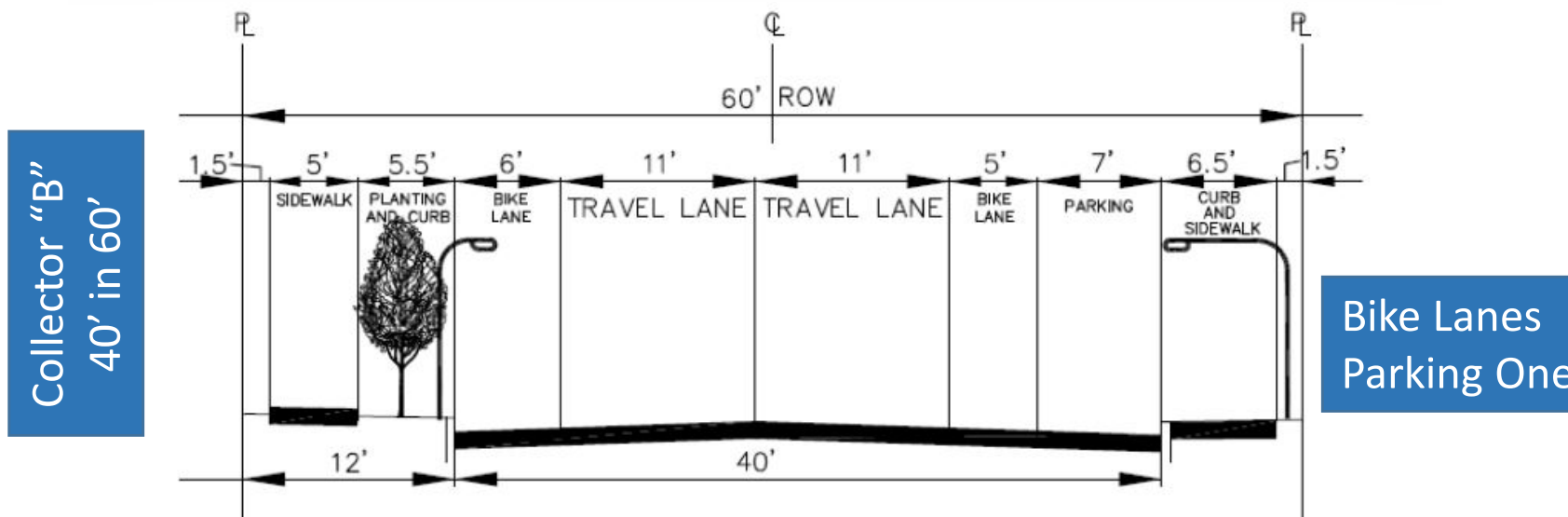
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- Subject Property
- Taxlots
- Outside Salem City Limits
- AE Floodplain
- AE Floodway
- Mill Creek

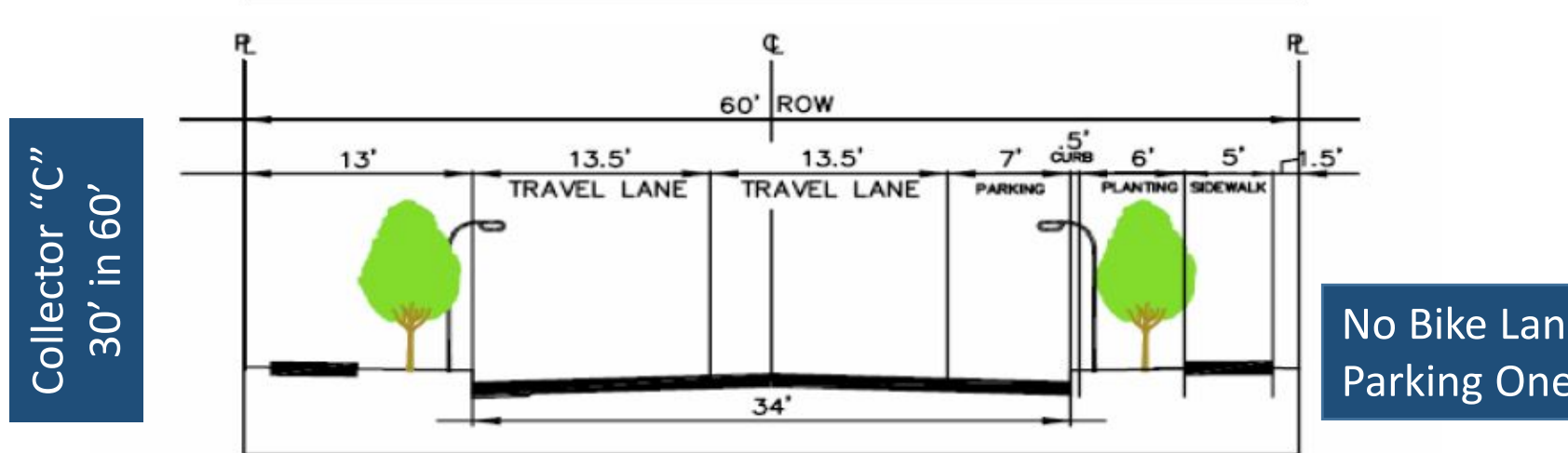




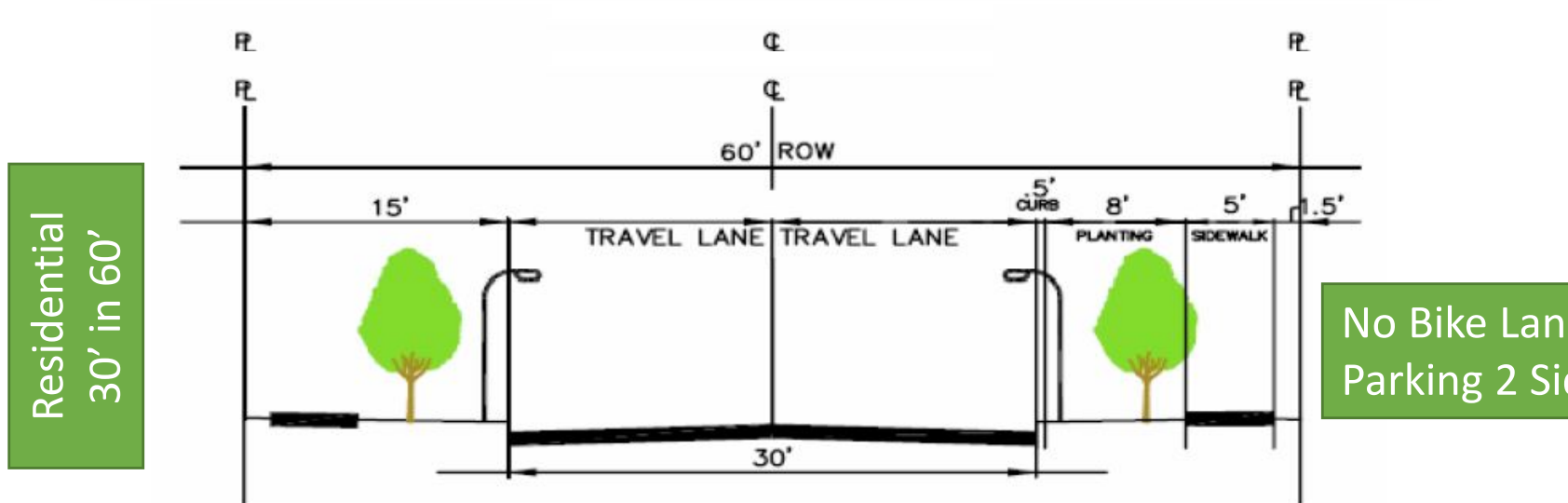
Bike Lanes
No Parking



Bike Lanes
Parking One Side



No Bike Lanes
Parking One Side



No Bike Lanes
Parking 2 Sides

Major Arterial
68' in 96'
(34' in 48')

Minor Arterial
46' in 72'
(23' in 36')

Collector "A"
34' in 60'

Collector "B"
40' in 60'

Collector "C"
30' in 60'

Residential
30' in 60'