



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 30, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment
DLCD File Number 007-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: August 10, 2007

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Sterling Anderson, Marion County

<paa>

FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

DATE
STAMP

DEPT OF
JUL 23 2007
LAND CONSERVATION AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: **MARION COUNTY**

Local file number: **ZC/CP06-08**

Date of Adoption: **7/18/2007**

Date Mailed: **7/19/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date:

- | | |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Does the Adoption differ from proposal? No, no explanation is necessary

Change the zone from RM (Multi-Family Residential) to CG (Commercial General) and to change the comprehensive plan designation from Multi-Family Residential to Commercial.

Plan Map Changed from: **MULTI FAMILY RESIDENTIAL** to: **COMMERCIAL**

Zone Map Changed from: **MULTI FAMILY RESIDENTIAL** to: **COMMERCIAL GENERAL**

Location: **4145 SILVERTON RD NE**

Acres Involved: **1**

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD 007-07 (NOA)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **STERLING ANDERSON**

Phone: **(503) 588-5038** Extension:

Address: **PO BOX 14500**

Fax Number: - -

City: **SALEM**

Zip: **97308-**

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON**

In the Matter of the)	Case No. ZC/CP 06-08
)	
Application of:)	Clerk's File No. 5530
)	
Terry and Pam Baldwin)	Zone Change/Comprehensive Plan
)	Amendment

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. 1251

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Terry and Pam Baldwin to change the zone from RM (Multi-Family Residential) to CG (Commercial General) and to change the comprehensive plan designation from Multi-Family Residential to Commercial on an 0.87 acre portion of a 1.21 acre parcel located at 4145 Silverton Road NE, Salem. (T7S; R2W; Section 7CD; Tax lot 00900).

SECTION II. Procedural History

The Marion County Hearings Officer held a public hearing on this application on November 1, 2006. Mailed notice was provided to all property owners within 250 feet of the subject property at least 20 days before the hearing. On May 24, 2007, the Hearings Officer issued a report recommending that the Board grant the requested changes subject to certain conditions. The Board held a duly noticed public hearing on the subject application on June 20, 2007. Official notice was taken of the Planning Divisions file and the Hearings Officer's recommendation. The Board considered evidence in the record, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Facts and Additional Findings of Fact and Conclusions of Law contained in Sections IV and V of the Marion County Hearings Officers recommendation in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested Comprehensive Plan Amendment from Multi Family Residential to Commercial is hereby **GRANTED**.

The requested zone change from RM (Multiple Family Residential) to CG (Commercial General) is hereby **GRANTED** subject to the conditions identified in Exhibit B, attached hereto and by this reference incorporated herein.

The property rezoned by this Ordinance is described in Exhibit C, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Urban Zoning Ordinance Section 1.40 to reflect the new zoning.

SECTION V. Effective Date

Pursuant to Ordinance 669, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this 18th day of July, _____, 2007, _____ at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Janet Carlson
Chair

D. Kim Neelett
Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of:) Case No. ZC/CP 06-08
)
) Clerk's File No. 5530
)
TERRY and PAM BALDWIN) Zone Change/ Comprehensive Plan
) Amendment

RECOMMENDATION

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the application of Terry and Pam Baldwin to change the zone from RM (Multi-Family Residential) to CG (COMMERCIAL GENERAL) and to change the comprehensive plan designation from Multi-Family Residential to Commercial on an 0.87 acre portion of a 1.21 acre parcel located at 4145 Silverton Road NE, Salem, Marion County, Oregon. (T7S; R2W; Section 7CD; Tax Lot 900)

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Salem Area Comprehensive Plan (SACP) and the Marion County Urban Zoning Ordinance (MCUZO), especially chapters 7, 26, 39, and 43.

III. Public Hearing

A public hearing was duly held on this application on November 1, 2006. At the hearing, the Planning Division file as well as the file for case no. ZC 87-11 was made part of the record. The following persons appeared at the hearing and provided testimony on the application:

- | | | |
|----|---------------|-------------------|
| 1. | Diane Rolph | Planning Division |
| 2. | Jeff Tross | For Applicant |
| 3. | Terry Baldwin | Applicant |

No documents were presented, marked or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

IV. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject property consists of 1.21 acres. The northern 0.87 acres of the subject property is designated Multi-Family Residential in the Salem Area Comprehensive Plan (SACP) and correspondingly zoned RM (Multi-Family Residential) as the zoning for Marion County. The southern 0.34 acres is designated Commercial. The proposal would change the designation in the northern 0.87 acres to be consistent with the southern 0.34 acre portion. The property is outside of the Salem City limits but within Urban Growth Boundary for the City of Salem.
2. The northern 0.87 acres is zoned RM (Multifamily Residential) and the southern 0.34 acres is zoned (CG) Commercial General, after an approval in Zone Change Case #87-11. The proposal is to change the zone on the northern 0.87 acres to be consistent with the zoning on the southern 0.34 acres that contains the applicants' current automobile repair and service business.
3. Property to the north and west is zoned RS (Single-Family Residential). The property to the southwest is zoned CG and occupied by an automobile sales business. Property to the east is zoned RM and consists of an apartment complex. The property to the southeast is zoned CO (Commercial Office) and occupied by a dentist's office. The property across Silverton Road is zoned CR (Commercial Retail) and occupied by Double H Western Wear, Feed Store, and Oak Park RV.
4. The applicants are requesting to change the Comprehensive Plan designation from Multi-Family Residential to Commercial and change the zone from RM (Multi-Family Residential) to CG (Commercial General) to expand the existing business.
5. Comments below are from other interested agencies. They may be a narrative of comments received. The full comments can be reviewed in the planning file.

Marion County Engineering Development Services & Permits commented that "transportation issues have been reviewed based on the applicant's proposed development. Changes in development level may result in changes in requirements and mitigation measures. If use of the property regularly exceeds 100 trips per day, traffic issues will need to be re-evaluated, a Transportation Impact Analysis (TIA) may be required, and mitigation measures (such as road improvements and/or contributions) may be required.

The developer will be required to obtain driveway permits for the change in use of the existing access.

No new accesses to Silverton Road will be permitted.

Site grading shall not impact surrounding properties, roads, or drainage ways in a negative manner. Construction of improvements on the property shall not block historical or naturally occurring runoff from adjacent properties.

At this level of development, storm-water detention will not be required. However, if the amount of impervious area is further increased, storm-water detention may be required to detain the difference between a 10-year storm with developed conditions and a 5-year storm with pre-developed (before development authorized in this case) conditions.

The subject property is within the Urban Growth Boundary of the City of Salem. Systems Development Charges will be assessed upon development of the subject property at the time of application for building permits. Any utility work in the public right-of-way will require a utility permit from Public Works.

Marion County Fire District #1 commented that applicants must comply with access, water supply and address standards per Marion County Fire code applications guide.

City of Salem Community Development commented that the application would allow removal of 0.87 acres from multi-family housing. Applicants should address impacts on housing inventory/goals.

City of Salem Public Works commented that the existing building is connected to a sewer line. If the property owners remove the building, they should contact the City of Salem. An upgrade of the water meter may be required to serve future development."

The Division of Land Conservation and Development was notified of the proposed amendment as required but did not respond.

All other contacted agencies either failed to respond or stated no objection to the proposal at the time this report was written.

V. Additional Findings of Fact and Conclusions of Law

1. Applicants have the burden of proving all applicable standards and criteria are met.

COMPREHENSIVE PLAN AMENDMENT

2. The subject property is outside of the Salem city limits but within the Salem UGB. Marion County has jurisdiction in this area but must coordinate land use applications with the City of Salem. The Marion County Planning Division requested comments from the City of Salem. The City of Salem Community Development and Public Works departments responded as noted above.
3. As stated above, the Department of Land Conservation and Development (DLCD) must be notified of any proposed comprehensive plan amendment. DLCD was notified as required but provided no comment on the application.

4. Comprehensive plan amendments are classified, under MCUZO 43.00, as legislative and non-legislative amendments. A non-legislative amendment involves a change to the land use designation of four or fewer different ownerships and 15 or fewer acres.

This application involves one ownership of a 1.21 acre parcel. This is a non-legislative plan amendment.

5. MCUZO 43.02 contains the following criteria for non-legislative plan amendments:
 - (a) Conformance with the comprehensive plan goals, policies and intent, and any plan map amendment criteria in the plan, or intergovernmental planning coordination agreement, pertaining to unincorporated lands.
 - (b) The addition of the subject property to the inventory of lands in the proposed map designation and the corresponding inventory reduction in the current designation are consistent with the projected needs for such lands within the [c]omprehensive [p]lan.
 - (c) Uses allowed in the proposed designation will not significantly affect planned uses on adjacent lands; and
 - (d) Public facilities and services necessary to support uses allowed in the proposed designation are available or are likely to be available in the near future.
6. The subject property is within the Salem UGB and is subject to the SACP. The intent of the SACP is to project the most desirable pattern of land use in the Salem area. According to SACP II.A.3.c, designated Commercial areas provide the following types of shopping and service opportunities: Regional shopping facilities, community/neighborhood shopping and service facilities, convenience stores, commercial offices, and specialized shopping and service facilities. Commercial offices accommodate office space and non-retail services. The SACP commercial development goal is to maintain the Salem urban area as a commercial center for the Marion-Polk County metropolitan area. There are no map amendment criteria in the SACP.

The current designation for the subject parcel is multi-family residential but the property is split zoned. The only access is through the commercial portion of the property that fronts Silverton Road, a major arterial roadway. The RM zoned portion is to the north and across a ditch. It is undeveloped and its characteristics are not conducive for residential development. While 0.87 acres will be taken out of the RM designation, there have been several recent cases in which area was actually added to the RM designation including: ZC/CP06-07 changed the zoning for 2.89 acres from UD to RM; ZC/CP 05-04 changed the zoning for 1.31 acres from UD to RM; and ZC/CP

04-08 changed the zoning for 71.28 acres from RS to RL (Limited Multi-Family Residential). The removal of less than one acre from the designation is minute.

The subject area consists of properties in commercial uses or moving towards commercial uses. A car sales lot is located to the southwest of the subject property, and a dentist office is located to the southeast. Across Silverton Road, (a roadway with a very high daily traffic volume) is a retail western clothing store with a related feed store and an RV park. Property to the east is zoned RM and consists of an apartment complex. These factors are consistent with the projected needs for such lands within the comprehensive plan. Because of the small acreage involved as well as already existing businesses surrounding the subject property, there should be little affect on the planned uses on adjacent lands. As the business is already in existence, public services and facilities are already in place.

General Development Policy 7. Structures and their siting in all residential, commercial, and industrial developments shall optimize the use of land. The cumulative effect of all new residential development in the Salem urban area should average 6.5 dwelling units per gross acre of residential development. Development should minimize adverse alteration of the natural terrain and watercourses, the potential for erosion and adverse effects upon the existing topography and soil conditions.

The applicants' have owned and operated their automobile service and repair shop on the subject property since 1989. The repair shop is located on the portion of the subject property designated C in the comprehensive plan and zoned CG. Applicants plan to continue operating their business and are in need of expansion to accommodate the parking of vehicles and storage of supplies and equipment. Applicants intend to add a 2,000 square foot storage building directly north of their current shop and a parking area for parking vehicles as they await repairs. Should applicants later add to or replace structures, new buildings must meet CG zone standards. General development policy 7 is met.

General Development Policy 14. Outdoor storage areas should be screened from the public streets and adjacent uses.

MCUZO 26.58 sets out the development standards for automotive repair, service and parking. As a condition of approval, the applicants will comply with this provision. As conditioned, general development policy 14 is met.

General Development Policy 15. Exterior lighting shall be designed to provide illumination to the site and not cause glare into the public right-of-ways and adjacent properties.

Applicant will be required to provide a lighting plan showing how lighting will be placed to illuminate the subject property and not cause glare into the public right-of-ways and adjacent residential properties. As conditioned, general development policy 15 is met.

Growth Management Policy 7. Within the Salem urban area, residential subdivisions, mobile home parks, multi-family residential, commercial and industrial development shall be permitted only within the County service districts or within the City of Salem where public sewer and water services are available and other urban facilities are scheduled pursuant to an adopted growth management program. Exceptions to this policy may only be permitted if mutually agreed to by the City and the appropriate County.

The subject property is within the East Salem Service District, and already receives water and sewer services. Growth management policy 7 is met.

Commercial Development Policy 2. Development of shopping and service facilities may be approved only after reviewing a development plan consisting of maps and written statements on the follow:

- a. Site plan,
- b. Layout of all off-street parking and loading facilities,
- c. Landscaping plan,
- d. Surface stormwater plan,
- e. Vehicular and pedestrian circulation plan,
- f. Utility plans,
- g. Impact on adjacent neighborhoods,
- h. Impact on adjacent street networks,
- i. Proposed use(s),
- j. Transit service, and
- k. Other information that may be required.

While it may seem that these provisions would only apply at the development stage, the only process by which they may be examined is this proceeding. As a condition of approval, the applicants will be required to submit a site plan that includes the location of the proposed new building, setbacks, and landscape/screening plan. DPW addressed the need for stormwater detention and found that there was none needed at this time. As part of the site plan, the applicants could include the vehicular and pedestrian circulation plan. The applicants have addressed the utility and transit services in their statement accompanying the application.

It does not appear that the proposed use will have any significant impact on the adjacent neighborhoods or street networks because the subject property fronts on to a major arterial, Silverton Road, and that will not change. Applicants have addressed

these issues in the statement attached to their application. As conditioned, commercial development policy 2 can be met.

Commercial Development Policy 5. Unless the existing development pattern along arterials and collectors commits an area to strip development, new commercial.

Applicants wish to expand their business. This is not a new commercial development. The subject property has access onto Silverton Road, a major arterial roadway. This is the only access to the property. The existing business has been at this location for sometime. As such, the business has been and will continue to provide a service to several neighborhoods.

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

The subject property is bordered by both residential and commercial zoned properties. The subject property contains a drainage ditch in the northern portion of the RM zoned portion of the property that should provide a buffer to that part of the adjacent properties to the north zoned RM and RS. A site obscuring fence, wall or berm will provide a buffer from parking and loading areas for the abutting residential properties and will be made a condition of approval. Restricting outside storage and directing lighting away from residential properties will also provide needed protection for adjacent residential uses. As conditioned, the surrounding residential uses will be adequately buffered and Commercial Development Policy 8 will be met.

Conclusion: With the conditions of approval noted above, the proposal will conform to the SACP goals, policies and intent. As conditioned, MCUZO 43.02(a) will be satisfied.

7. The SACP contains little information on residential and commercial property inventories within the Salem UGB, but the proposal is consistent with land use patterns along Silverton Road where lots have been rezoned from residential to commercial. As set out in item 6 above, property has recently been added to the residential inventories. Due to the small size of the property, removing the lot from Multiple Family Residential designation and adding it to the Commercial designation will have no significant affect on the overall lands inventory within the UGB. Redesignating the subject property as proposed will have little affect on the projected need for Multiple-Family Residential or Commercial land within the Salem UGB. MCUZO 43.02(b) is satisfied.
8. The Commercial designation allows a wide array of intensive commercial uses. The CG zone uses can generate quite a bit of traffic and noise, such as eating places (drive up windows, automobile radios, engine noise, doors slamming, etc.). However, the applicants have conducted their current business at the same location for over fifteen years. During that time the character of the neighborhood has changed and become more commercialized. A portion of the subject property already abuts a CO and a CG

zoned parcel. Although the northern portion of the subject property is zoned RM, the applicants state that it is unlikely that it will ever be developed for residential use because it is landlocked and it would not be feasible to place a dwelling on that portion of the property. The northern portion of the property also contains a ditch which would make the development of that portion of the property less desirable for commercial purposes. The proposed use is an expansion of the existing business. Because a 2000 square foot building is being proposed, and there are residential uses to the east and west, as a condition of approval, the hours of the business can be restricted so that the potential noise and light problems can be reduced. As a condition of approval the applicants will be required to conduct their business between the hours of 7 a.m. and 9 p.m. As conditioned, the proposed use will not significantly adversely affect uses on adjacent properties, and MCUZO 43.02(c) will be satisfied.

9. The applicants' business is already on the subject property. Public services, including public transportation, are readily available to the subject property. Because the property is long and rectangular, as a condition of approval, the applicant will be required to provide proof from MCFD1 that adequate fire access is provided. With the condition of approval regarding adequate fire access, MCUZO 43.02(d) will be satisfied.
10. Approval of the proposed comprehensive plan amendment, as conditioned, is recommended.

ZONE CHANGE

11. The requirements for a zone change are found in section 39.05 of the MCUZO, and include:
 - (a) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
 - (b) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.
 - (c) Satisfaction of any zone change review criteria in the applicable city comprehensive plan pertaining to unincorporated lands is demonstrated.
 - (d) The criteria listed in the purpose statement for the proposed zone shall be met.
 - (e) If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties

zoned for less intensive uses.

12. The northern portion of the subject property is currently designated Multi-Family Residential in the SACP. The developed southern portion of the property is currently designated Commercial. The proposal is to change the designation for both pieces of the property to Commercial and to change the zoning to Commercial General. This would allow the entire property to have one Plan designation to be in one zone. The property to the north contains a drainage ditch and the applicants do not plan to use the property north of the drainage ditch. The northern portion of the property, currently zoned RM, is landlocked and the surrounding property is already developed. Therefore, it appears that the RM portion of the property is incompatible with being developed for residential purposes. As set out in item 6 above, the SACP policies are met. The proposed zone would fit within the proposed Commercial designation. MCUZO 39.05(a) is met.
13. The subject property is located within the Salem Area Urban Growth Boundary and the applicants' business is already located on the subject property. Services to the area are currently in place. Salem Cherriots bus service provides public transportation to Lancaster Drive, a major arterial that is located approximately 600' to the west of the subject property. The City of Salem provides sanitary services, and the subject property is located in the East Salem water district. MCUZO 39.05(b) is met.
14. The Salem Area Comprehensive Plan contains no zone change review criteria. Therefore, section 39.05(c) does not apply in this instance.
15. MCUZO 7.00 states:

The purpose of the CG (Commercial General) zone is to provide areas suitable for warehousing, wholesale commercial sales and services with related outdoor storage or retail sales. The Commercial General zone is appropriate in those areas designated Commercial in the applicable urban area comprehensive plan where the location has access to an arterial street or highway for transport of bulk materials and where impacts associated with permitted uses will not create significant adverse impacts on local streets or residential zones.

The applicants are proposing to use the northern portion of the property for additional parking and building a new 2000 square foot storage building. The business fronts Silverton Road, a major arterial roadway. The business does not have access to any local or residential streets. The business location is approximately 600 feet from the intersection of Lancaster Drive and Silverton Road. As a condition of approval, the applicants will be required to comply with all setbacks, screening and buffers to lessen the impact on residential zones. The use should not have any significant adverse

impacts on local streets or residential zones. As conditioned, the criteria in MCUZO 39.05(d) can be met.

16. The proposed plan designation is Commercial. CO (Commercial Office) and CR (Commercial Retail) zones are also within the proposed Commercial designation. Neither of these two zones allow for automobile repair services outright although the CR zone would conditionally allow the use. The CG zoning is the most intensive use of the three mentioned zones. In order to lessen any adverse impact on adjacent properties for less intensive uses, the applicants will be required to comply with certain conditions of approval. With conditions in place to protect the surrounding uses, MCUZO 39.05(e) can be met.
17. The applicants have demonstrated that they meet the criteria for a zone change. Therefore, the proposed zone change is recommended.

VI. Recommendation

It is hereby found that the applicants have met the burden of proving the applicable standards and criteria for approval of a comprehensive plan amendment to change the designation from Multi-Family Residential to Commercial and a zone change from RM (Multi-Family Residential) to Commercial General for the approximate 0.87 acres of the subject property that does not already have that designation and zoning. Therefore, the hearings officer recommends the application be **GRANTED**, subject to the conditions set forth below. These conditions are necessary for the public health, safety and welfare.

1. Applicant shall obtain all permits required by the Marion County Building Inspection Division, including all building permits. System development charges will be assessed upon development of the subject property at the time of application for building permits.
2. As part of the building permit process, a detailed site plan shall be submitted for review and approval. The site plan, drawn to scale, shall demonstrate compliance with all applicable Marion County Urban Zoning Ordinance requirements pertaining to location of the new building, vehicular and pedestrian traffic plans, landscaping, signing, lighting, setbacks, buffers, and parking.
3. The applicants will comply with all provision of MCUZO 26.58 regarding the paving of the lot, the placement of a sight-obscuring fence, and keeping the repair of vehicles and the storage of supplies and merchandised confined to a building.
4. No new access will be allowed on to Silverton Road.

5. Site grading shall not impact surrounding properties, roads, or drainage ways in a negative manner. Construction of improvements shall not block historical or naturally occurring runoff from the adjacent properties.
6. Any utility work in the public right-of-way will require a utility permit from Public Works.
7. Applicant shall provide proof to the Marion County Planning Division that Marion County Fire District #1 site identification, access, and water requirements are satisfied.
8. Because there will be only one point for both ingress and egress, applicants shall construct a turnaround for emergency vehicles with a configuration approved by DPW.
9. Location and height of signs shall be approved by the Marion County Planning Division and DPW Engineering Development Services and Permits section. All signage shall comply with Marion County Urban Ordinance requirements.
10. Due to adjacent residential properties, the hours of the business shall be limited to between the hours of 7 a.m. and 9 p.m.
11. All current and future development on the property must satisfy the specific development standards in the CG zone and the general standards found in Chapters 26 through 40 of the MCUZO.

VII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED at Salem, Oregon, this 24th day of May, 2007.



Cynthia L. Domas
Marion County Hearings Officer

CERTIFICATE OF MAILING

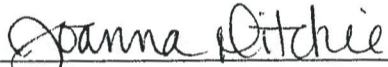
I hereby certify that I served the foregoing order on the following persons:

Terry and Pam Baldwin
4145 Silverton Road NE
Salem, OR 97305

Agencies Notified
Planning Division
Building Inspection

Jeff Tross, Planning Consultant
1720 Liberty Street SE
Salem, OR 97302

by mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 24th day of May, 2007, and that the postage thereon was prepaid.



Joanna Ritchie
Secretary to Hearings Officer