

TO: MAYOR AND CITY COUNCIL

THROUGH: 
LINDA NORRIS, CITY MANAGER

FROM: VICKIE HARDIN WOODS, DIRECTOR 
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: AMENDMENTS TO THE PORTLAND/FAIRGROUNDS ROAD OVERLAY
ZONE REMOVING THE ROSE GARDENS MIXED-USE AREA (CA 11-05)

ISSUE:

Should the City Council enact Engrossed Ordinance Bill No. 36-11, amending SRC Chapter 143B (Portland/Fairgrounds Overlay Zone) and the Development Design Handbook to remove the Rose Gardens Mixed-Use Area (Area 2) from the Portland/Fairgrounds Road Overlay Zone?

RECOMMENDATION:

Staff recommends that the City Council advance Engrossed Ordinance Bill No. 36-11, amending SRC Chapter 143B (Portland/Fairgrounds Overlay Zone) and the Development Design Handbook to remove the Rose Gardens Mixed-Use Area (Area 2) from the Portland/Fairgrounds Road Overlay Zone, to second reading for enactment.

BACKGROUND:

On October 10, 2011, the City Council approved a motion directing staff to initiate amendments to the Salem Revised Code (SRC) to remove the Rose Gardens Mixed-Use Area from the Portland/Fairgrounds Road Overlay Zone in order to address concerns that the development standards applicable within the mixed-use area present obstacles to the development of larger scale retail uses, such as grocery stores.

The Rose Gardens Mixed-Use Area (Attachment A) is one of three distinct subareas within the Portland/Fairgrounds Road Overlay Zone, the purposes of which are to establish locations within the broader overlay where higher density mixed-use development should occur. Property within the Rose Gardens Mixed-Use Area has remained undeveloped ever since previous improvements to the site were removed and the overlay zone was applied to the property in 2001.

The proposed amendments included in Engrossed Ordinance Bill No. 36-11 remove the Rose Gardens Mixed-Use Area from the overlay zone and, as a result, eliminate those specific standards that have been identified as presenting obstacles to the development of larger scale retail uses; while at the same time retaining the development and design review standards of the overlay that promote an attractive, pedestrian-friendly environment.

The engrossed status of Ordinance Bill No. 36-11 reflects the inclusion of Exhibit 1, referenced in Section 5 of the proposed ordinance, which amends the map of the Portland/Fairgrounds Road Overlay zone contained in the *Development Design Handbook*. This exhibit was not attached to the original ordinance the Council received for first reading on November 14, 2011.

FACTS AND FINDINGS:

Procedural Findings

1. Under SRC 300.1110(a)(3), legislative land use proceedings may be initiated by staff through preparation and placement of an ordinance bill on the City Council agenda for first reading. The City Council may schedule a public hearing on the ordinance bill, refer it to another Review Authority for review and recommendation, or may decline to advance the ordinance bill to second reading.
2. On November 14, 2011, Ordinance Bill No. 36-11 was presented to the City Council for first reading. The Council voted to hold a public hearing on the proposed ordinance bill and a public hearing date was subsequently set for January 9, 2012.
3. ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 45 days prior to the first public hearing. Notice to DLCD was sent on November 17, 2011.
4. Notice of public hearing on the proposed amendments was mailed on December 20, 2011, and published in the newspaper.

Proposed Code Amendments

5. A comparison of the requirements that will apply before and after the proposed amendments are included in Attachment B. In summary, the proposed amendments result in eliminating the following four restrictions that have been identified as presenting obstacles to redevelopment of larger scale retail uses. For illustration purposes, the effect of these restrictions is described in terms of how they would impact a stand-alone grocery store on the property.

A. Minimum Floor Area Ratio (F.A.R.). Floor area ratio is a method of requiring a specific level of development density. Floor area ratio is calculated by dividing the floor area of all buildings on a lot by the total lot area. Within the Portland/Fairgrounds Road Overlay a minimum F.A.R. of 0.5 is required for non-residential uses and mixed-use developments within mixed-use areas.

The property located within the Rose Gardens Mixed-Use area totals approximately 13.6 acres in size. Based on the minimum 0.5 F.A.R., 6.8 acres, or 296,208 square feet, of building area would need to be constructed on the property. This total square footage exceeds the square footage that a stand-alone grocery would be able to provide.

- B. Maximum Building Area.** Within mixed-use areas a single development is limited to a maximum aggregate floor area of 50,000 square feet. The maximum square footage does not apply, however, to mixed-use developments. Under this standard, a stand-alone grocery store greater than 50,000 square feet in size would not be permitted.
- C. Two-Story Buildings.** Within mixed-use areas all new buildings in a mixed-use development are required to have a second floor equal to at least fifty percent of the first floor area. This standard poses a problem for most grocery stores, as it is uncommon for them to be developed as two-stories, except in circumstances where they are locating in a dense, urban setting.
- D. Maximum Building Setback from Public Right-of-Way.** Within mixed-use areas the design review standards require buildings to be set back no farther than ten feet from the public right-of-way. Outside of mixed-use areas the design standards require buildings to be set back no further than sixty feet from public right-of-way.

A maximum setback of ten feet from the public right-of-way is difficult for a grocery store to address because it requires a site design that is different from the traditional model of locating the building near the rear of the property with parking in front. The proposed amendments allow the maximum building setback from the public right-of-way to be increased from ten feet to sixty feet. This provides some additional flexibility for the siting of buildings, but also requires that buildings retain some sense of relationship and orientation to the public right-of-way.

Consistency with the Salem Area Comprehensive Plan

- 6. The Salem Area Comprehensive Plan (SACP) is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents of the Salem urban area.

As an implementing tool of the SACP, the Zoning Code regulates the use of land to fulfill its goals and policies. The proposed amendments to SRC 143B are needed to reflect market and local interests in development of the Rose Gardens portion of the Portland/Fairgrounds Road overlay. Removal of the Rose Gardens Mixed-Use Area removes limitations relating to building size, configuration, and placement that have been identified as potential barriers to redevelopment. By removing these specific barriers, but retaining all of the other remaining development and design review standards of the overlay, the proposed amendments help to promote future redevelopment in the area that:

- A. Meets the needs of present and future residents of the Salem urban area consistent with the intent of the comprehensive plan; and
- B. Is consistent with the intent and purpose of the Portland/Fairgrounds Road Overlay Zone to promote a variety of activities along Portland Road including commercial,

office, and industrial uses in a manner consistent with the area's role as the northern gateway into Salem.



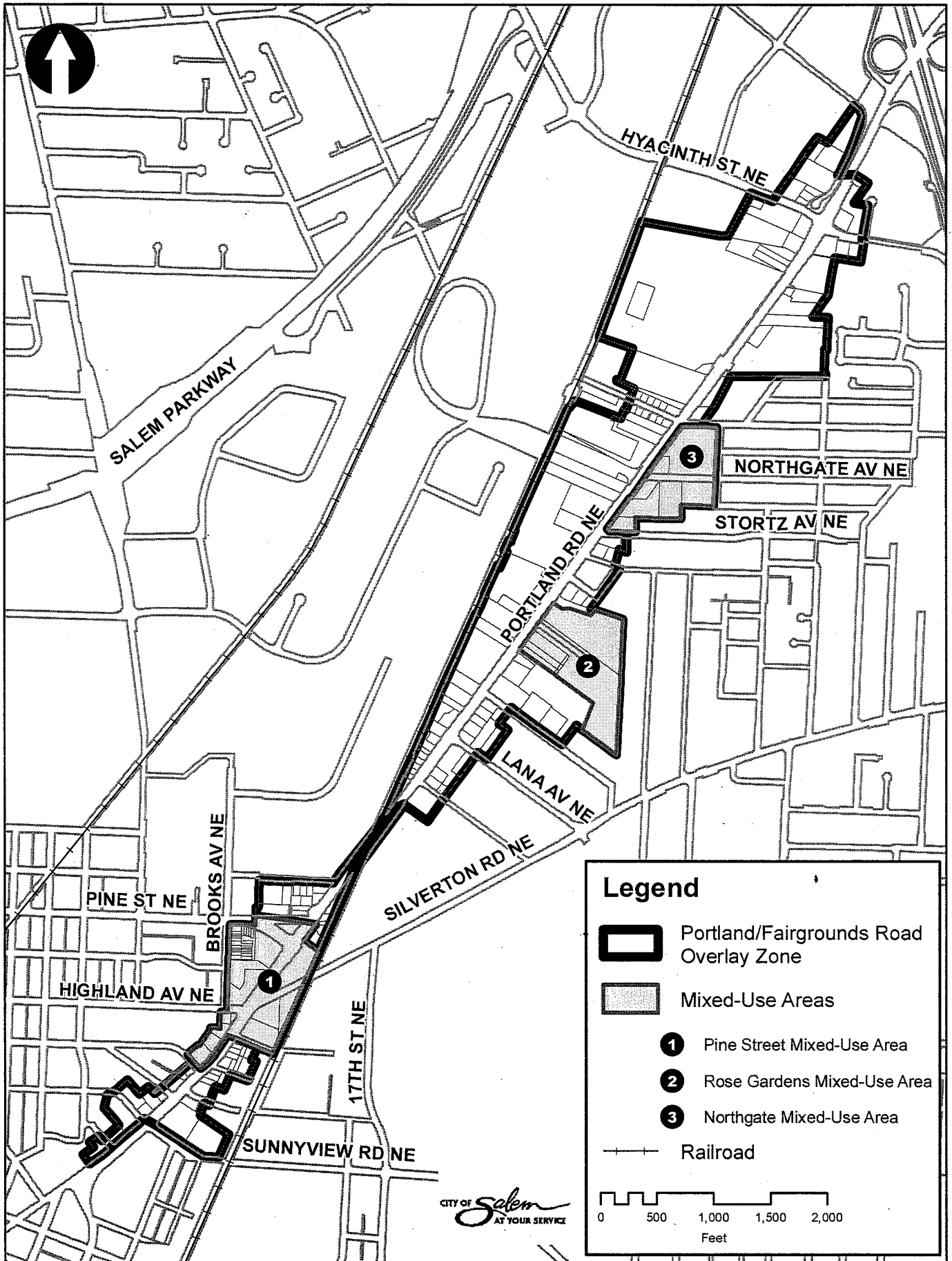
Glenn W. Gross, Urban Planning Administrator

Attachments: A. Map of Portland/Fairgrounds Road Overlay Zone
B. Portland/Fairgrounds Road Overlay Zone Requirements Comparison







Prepared by Bryce Bishop, Planner II

G:\CD\PLANNING\CASE APPLICATION FILES 2011-ACODE AMENDMENTS\CA 11-05 - Portland-Fairgrounds Road Overlay Zone Ch 143BICA11-05 (CC PH Report 1-9-2012) revised2.DOC

Portland/Fairgrounds Road Overlay Zone



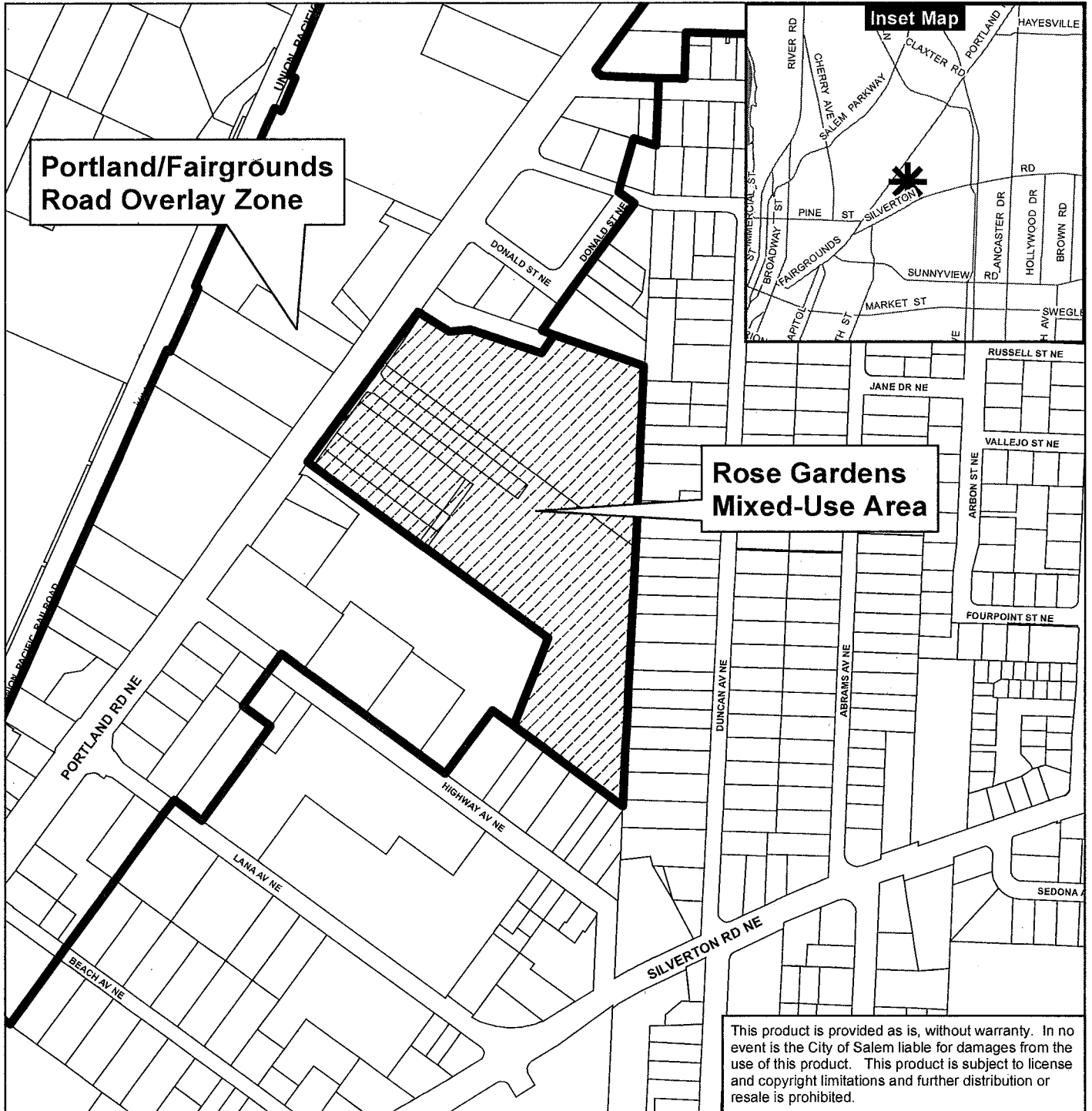
Legend

-  Portland/Fairgrounds Road Overlay Zone
-  Mixed-Use Areas
-  1 Pine Street Mixed-Use Area
-  2 Rose Gardens Mixed-Use Area
-  3 Northgate Mixed-Use Area
-  Railroad

0 500 1,000 1,500 2,000
Feet









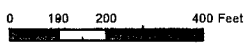
ROSE GARDENS MIXED-USE AREA



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Legend

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



Portland/Fairgrounds Road Overlay Zone Requirements Comparison
(Before and After Proposed Amendment)

Standard/Requirement	Existing Code	Rose Gardens Mixed-Use Area Removed
Land Use		
Subject to Specific List of Allowed Uses in Overlay	Yes	No <i>(Underlying CR Zone will govern, with exceptions)</i>
Development Standards		
Min. 0.5 Floor Area Ratio (F.A.R.)	Yes	No
Residential Density Standards	Yes	Yes
Townhouse Lot Area and Dimensions	Yes	Yes
Max. 50,000 sq. ft. Building Size	Yes	No
Special Parking and Loading Area Development Standards	Yes	Yes
Minimum one Parking Space per Dwelling Unit for Residential Uses	Yes	No
Screening Standards -Trash Receptacles -Use of hazardous materials for fencing	Yes	Yes
Outdoor Storage Standards	Yes	Yes
Pedestrian Access Standards	Yes	Yes
Project Enhancements	Yes	Yes
Additional Signage Standards	Yes	Yes
Design Review Standards		
Setbacks -Max. 10 ft. from Right-of-Way (Standard) -Max. 60 ft. from Right-of-way (Standard)	Yes No	No Yes
Primary Building Entrances Facing Right-of-Way	Yes	Yes
Minimum 65% Transparent Windows for Ground Floor Facades Facing Portland/Fairgrounds Road Corridor	Yes	Yes
Building Offset Jogs for Building Frontages Greater than 75 ft.	Yes	Yes
Weather Protection (Canopies or Awnings) Along Min. 50% of Ground Floor Façade adjacent to Sidewalks/Pedestrian Connections	Yes	Yes
Min. 25-Foot Building Height	Yes	No
Screen Open Sales Areas	Yes	Yes
Min. 10-foot Landscape Strip Between Surface Parking Lot and Right-of-Way	Yes	Yes
Max. 50% Parking Lot Frontage Abutting Right-of-Way	Yes	No
Include Ground Floor Commercial Space in Parking Structures Along Portland/Fairgrounds Road Frontage	Yes	No

ATTACHMENT B

1 **ENGROSSED**

2 **ORDINANCE BILL NO. 36-11**

3 AN ORDINANCE RELATING TO THE PORTLAND/FAIRGROUNDS ROAD OVERLAY
4 ZONE; AMENDING SRC 143B.020, SRC 143B.140, SRC 143B.150, AND SRC 143B.160;
5 AND ADOPTING REVISIONS TO THE CITY OF SALEM DEVELOPMENT DESIGN
6 HANDBOOK

7 *The City of Salem ordains as follows:*

8 **Section 1.** SRC 143B.020 is amended to read as follows:

9 **143B.020. Establishment of Overlay Zones.** The Portland/Fairgrounds Road Overlay
10 Zone, and sub-areas, Pine Street Mixed-Use Area (area 1); ~~Rose Gardens Mixed-Use Area~~
11 ~~(area 2)~~; and Northgate Mixed-Use Area (area ~~3~~2), are established and are shown on Figure
12 143B-1 of the Development Design Handbook.

13 **Section 2.** SRC 143B.140 is amended to read as follows:

14 **143B.140. Permitted Uses - ~~Rose Gardens and Northgate CR Mixed-Use Areas.~~** The
15 following uses, when developed under the general development standards in this zoning
16 code, generally, are permitted in the ~~Rose Gardens and Northgate Mixed-Use Areas 2 and 3~~
17 with a Commercial Retail underlying zone.

18 (a) Agriculture and forestry:

- 19 (1) Veterinary services for animal specialties (0742); and
20 (2) Landscape and horticultural services - Offices Only (0781).

21 (b) Construction:

- 22 (1) Offices for any use listed in SIC Division C - Construction.

23 (c) Printing and publishing:

- 24 (1) Commercial printing (275).

25 (d) Transportation, communications, electric, gas, and sanitary services:

- 26 (1) U.S. Postal Service (431);
27 (2) Telephone communications (481) with ground floor retail and/or office only; and
28 (3) Telegraph and other communication (482) with ground floor retail or office only.

29 (e) Retail trade:

- 30 (1) Lumber and other building materials dealers (521);

- 1 (2) Paint, glass and wallpaper stores (523);
- 2 (3) Hardware stores (525);
- 3 (4) Retail nurseries, lawn and garden supply stores (526);
- 4 (5) General merchandise stores (53);
- 5 (6) Miscellaneous general merchandise stores (539);
- 6 (7) Grocery stores (541);
- 7 (8) Meat and fish (seafood) markets, including freezer provisions (no live animals or
- 8 slaughtering of live animals permitted on site) (5421);
- 9 (9) Fruit stores and vegetable markets (543);
- 10 (10) Candy, nut, and confectionery store (544);
- 11 (11) Dairy products store (no processing, sales on premises only) (545);
- 12 (12) Retail bakeries (546);
- 13 (13) Miscellaneous food stores (549);
- 14 (14) Auto and home supply stores (retail sales only, no service or installation)
- 15 (5531);
- 16 (15) Apparel and accessory stores (56);
- 17 (16) Furniture, home furnishings, and equipment stores (57);
- 18 (17) Eating and drinking places (58);
- 19 (18) Drug stores and proprietary stores (591);
- 20 (19) Liquor stores (592);
- 21 (20) Miscellaneous shopping goods stores (594); and
- 22 (21) Retail stores, not elsewhere classified (599) including, in addition to uses
- 23 specifically listed in SIC group 599, electrical and lighting shops, and office machines
- 24 and equipment stores.
- 25 (f) Finance, insurance, and real estate:
- 26 (1) Depository Institutions (60);
- 27 (2) Nondepository credit institutions (61);
- 28 (3) Security and commodity brokers, dealers, exchanges and services (62);
- 29 (4) Insurance carriers (63);
- 30 (5) Insurance agents, brokers, and service (64);

- 1 (6) Real estate (65); and
2 (7) Holding and other investment offices (67).
- 3 **(g) Services:**
- 4 (1) Hotels and motels (701) BUT EXCLUDING casino hotels;
5 (2) Bed and breakfast establishments;
6 (3) Room and board facilities serving five or fewer persons;
7 (4) Personal services (72) BUT EXCLUDING carpet and upholstery cleaning (7217)
8 and industrial launderers (7218);
9 (5) Advertising (731) BUT EXCLUDING outdoor advertising (7312);
10 (6) Consumer credit reporting agencies, mercantile reporting agencies, and
11 adjustment and collection agencies- (732);
12 (7) Mailing, reproduction, commercial art and photography, and stenographic
13 services (733);
14 (8) News syndicates (7383);
15 (9) Photo finishing laboratories with retail (7384);
16 (10) Miscellaneous business services (738) BUT EXCLUDING automobile
17 recovery/repossession services; auto shows; drive away automobile service;
18 repossession service; field warehousing; gas services; racetrack cleaning; salvaging of
19 damaged merchandise and scrap steel cutting;
20 (11) Automobile parking (752);
21 (12) Equipment rental and leasing (7359);
22 (13) Watch, clock, and jewelry repair (763);
23 (14) Repair shops and related services, not elsewhere classified (7699) BUT
24 EXCLUDING motorcycle repair service; agricultural equipment repair; farm
25 machinery repair; and tractor repair;
26 (15) Motion picture distribution and allied services (782);
27 (16) Motion picture theaters; (7832) except BUT EXCLUDING drive in-(7832);
28 (17) Dance halls, studios, and schools (791);
29 (18) Theatrical producers-~~(except motion pictures)~~, bands, orchestras, and
30 entertainers (792) BUT EXCLUDING motion pictures;

- 1 (19) Bowling centers (793);
- 2 (20) Miscellaneous amusement and recreation services (799) BUT EXCLUDING
- 3 casinos, public golf courses (7992), amusement parks (7996), and entertainment
- 4 establishments, except as permitted as a special use in SRC 152.030(a)(4);
- 5 (21) Health services (80) BUT EXCLUDING hospitals (806);
- 6 (22) Legal services (81);
- 7 (23) Educational services (82);
- 8 (24) Social services (83) BUT EXCLUDING homeless shelters serving more than
- 9 five persons and residential care;
- 10 (25) Museums, art galleries, botanical and zoological gardens (84);
- 11 (26) Membership organizations (86);
- 12 (27) Engineering, accounting, research, management, and related services (87) BUT
- 13 EXCLUDING development laboratories (8731); and
- 14 (28) Services, not elsewhere classified (899).
- 15 **(h) Public administration:**
- 16 (1) Executive offices (911);
- 17 (2) Executive and legislative combined (913);
- 18 (3) Police protection (9221) BUT EXCLUDING jail facilities;
- 19 (4) Fire protection (9224);
- 20 (5) Public finance, taxation, and monetary policy (93);
- 21 (6) Administration of human resources programs (94);
- 22 (7) Administration of environmental quality and housing programs (95);
- 23 (8) Administration of economic programs (96);
- 24 (9) National security and international affairs (97); and
- 25 (10) Emergency management administration.
- 26 **(i) Dwellings, dwelling units, and temporary accommodations:**
- 27 (1) Townhouses (as defined in SRC 139.020(c)); and
- 28 (2) Attached apartment houses, condominiums, and court apartments when
- 29 constructed as part of a mixed-use development as defined in this Chapter.

30 /////

1 (j) Other uses:

2 (1) Mixed-use developments with uses as defined in this Chapter;

3 (2) Accessory buildings and uses normal and incidental to the uses permitted in this
4 district;

5 (3) Transit stop shelters; and

6 (4) On-site response actions in accordance with applicable law to discharges of oil
7 and releases of hazardous substances, pollutants, and contaminants.

8 **Section 3.** SRC 143B.150 is amended to read as follows:

9 **143B.150. Special Uses - ~~Rose Gardens and Northgate~~ CR Mixed-Use Areas.**

10 (a) The following uses, when restricted, developed and conducted as required in SRC
11 Chapter 119, are permitted in the Northgate Mixed-Use Area with a Commercial Retail
12 underlying zone:

13 (1) Used merchandise store (593);

14 (2) Entertainment establishments;

15 (3) Existing wildlife rehabilitation facility;

16 (4) Mobile food unit;

17 (5) Antennas attached to existing or approved structures;

18 (6) Ambulance station; and

19 (7) Ambulance service facility.

20 (b) In lieu of establishing any use listed in subsection (a) of this section as a special use
21 under SRC Chapter 119, the developer may elect to apply for conditional use approval
22 pursuant to SRC Chapter 117 or 118.

23 **Section 4.** SRC 143B.160 is amended to read as follows:

24 **143B.160. Conditional Uses - ~~Rose Gardens and Northgate~~ CR Mixed-Use Areas.**

25 ~~Conditional Uses.~~ The following uses, with conditional use approval as provided in SRC
26 Chapter 117 or 118, as applicable, are permitted in the ~~Rose Gardens and Northgate~~ Mixed-
27 Use Area with a Commercial Retail underlying zone.

28 (a) Those uses listed in SRC. 152.030, at the developer's option, as provided in
29 subsection (b) of that section.

30 (b) Manufacturing:

- 1 (1) Jewelry, silverware, and plated ware (391);
- 2 (2) Costume jewelry, costume novelties, buttons, and miscellaneous notions, except
- 3 precious metal (396); and
- 4 (3) Signs and advertising specialties (3993).
- 5 (c) Transportation, communications, electric, gas, and sanitary services:
- 6 (1) Local and suburban passenger transportation (411); and
- 7 (2) Intercity and rural highway passenger transportation within 2,000 feet from the
- 8 center point of the Portland Road/Interstate 5 interchange and having direct access
- 9 onto a major arterial (413).
- 10 (d) Retail:
- 11 (1) Non-store retailers (596).
- 12 (e) Services:
- 13 (1) Carpet and upholstery cleaning (7217);
- 14 (2) Electrical repair shops (762); BUT EXCLUDING electrical repair within
- 15 automobiles, boats and other vehicles;
- 16 (3) Re-upholstery and furniture repair (764); and
- 17 (4) Professional sports clubs and promoters (7941).
- 18 (f) Dwellings, dwelling units and temporary accommodations:
- 19 (1) Unlimited number of dwelling units and guest rooms in apartment houses, court
- 20 apartments, lodging houses, duplexes, and condominiums, when not constructed as
- 21 part of mixed-use developments; and
- 22 (2) Homeless shelters and room and board facilities serving ~~5~~five or fewer persons.
- 23 (g) Other uses:
- 24 (1) Off-site response actions in accordance with applicable law to discharges of oil
- 25 and releases of hazardous substances, pollutants, and contaminants.

26 **Section 5.** The Map of the Portland/Fairgrounds Road Overlay Zone contained in Section 11 of
27 the “City of Salem Development Design Handbook” is amended as set forth in “Exhibit 1,”
28 which is attached hereto, and incorporated herein by this reference.

29 /////
30 /////
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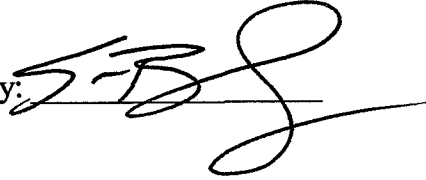
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Section 6. Severability. Each section of this ordinance, and any part thereof, is severable, and if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

PASSED by the City Council this _____ day of _____, 2012.

ATTEST:

City Recorder

Approved by City Attorney: 

Checked by: B. Bishop

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SECTION 11 - MAPS

Portland / Fairgrounds Road Overlay Zone Refer to SRC Chapter 143 for additional information

Portland/Fairgrounds Road Overlay Zone Figure 143B-1

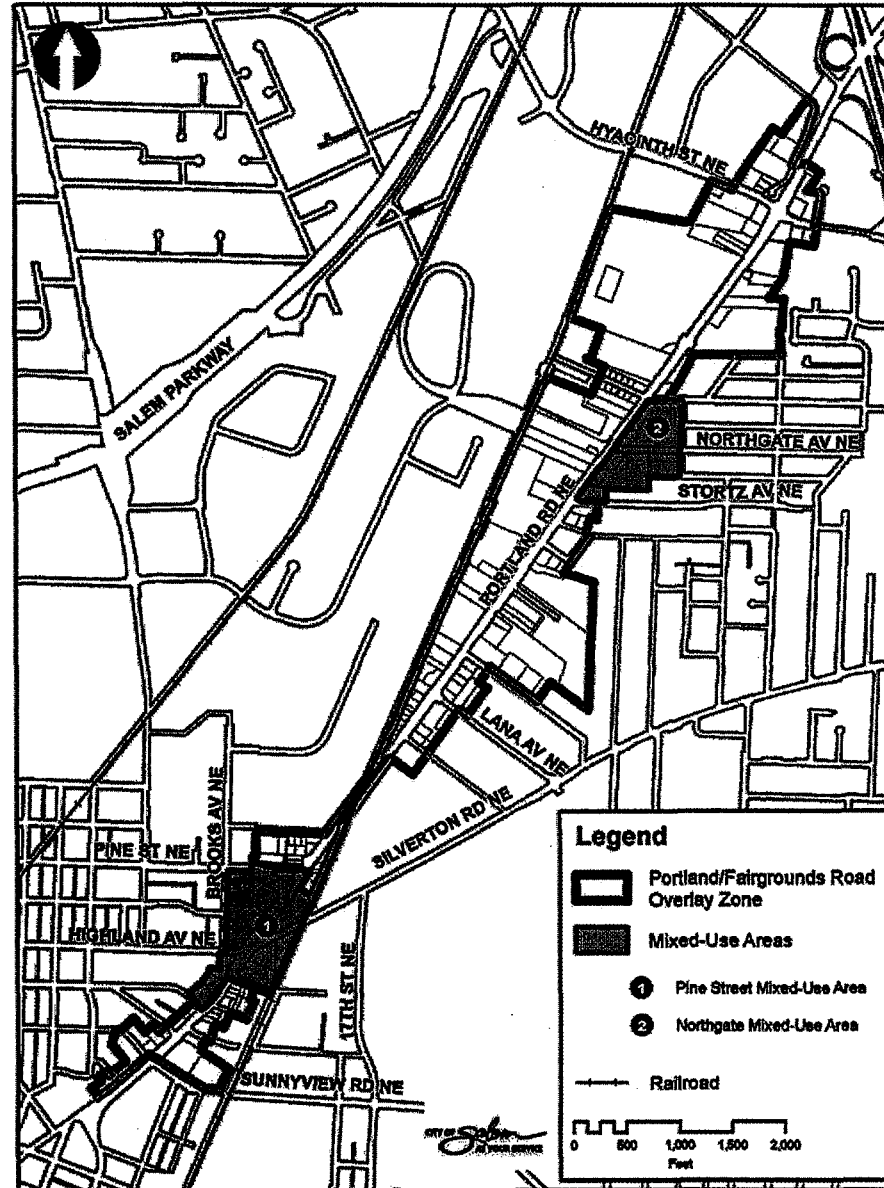


EXHIBIT 1

January 9, 2012
8 (c)

LARRY & JEANETTE EPPING FAMILY FOUNDATION
FEDERAL I.D. NO. 93-1229227
c/o Pioneer Trust Bank, N.A.
P.O. Box 2305
Salem, OR 97308-2305
PHONE (503) 363-3136
January 9, 2012

DOCUMENT FILED

JAN 03 2012
CITY OF SALEM
CITY RECORDER

Mayor Anna M. Peterson
Members of the Salem City Council
Hand Delivered

Dear Mayor Peterson and Salem City Councilors:

I regret not being able to attend tonight's meeting. The Larry and Jeanette Epping Family Foundation ("Foundation") greatly appreciates your consideration of the Portland Road Overlay Code Amendment.

I want to give you some background on the Foundation which might assist you as you deliberate this Code Amendment. The Foundation owns the subject property.

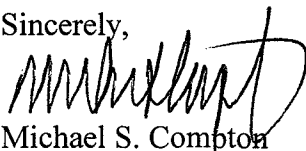
The Foundation is a charitable organization recognized by the Internal Revenue Service and is controlled by a Board of Directors. Larry and Jeanette Epping do not personally benefit from the Foundation. The Board consists of five volunteers.

The Foundation distributes the bulk of the income earned each year to area charities. The local projects funded by the Foundation are vast and numerous with almost \$8,000,000 having been distributed to charities in the brief history of the Foundation. In 2011 alone over \$1,000,000 was disbursed. To the extent that the subject property does not earn income, it cannot generate funds for disbursement to charities. The Foundation paid property taxes amounting to \$21,744.60 in November of this year for this particular property which has the impact of reducing the amount of income the Foundation has available for distribution.

We hope that by having the restrictions from the Overlay Code removed we will be able to successfully market the property thereby turning non-income producing property into income producing property. The end result is that area charities will be the recipients of more funds from the Foundation!

Thank you for your consideration of this matter and for your work on behalf of the citizens of Salem.

Sincerely,



Michael S. Compton
Director