



# HEARING NOTICE

## LAND USE REQUEST AFFECTING THIS AREA

### *Audiencia Pública*

*Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173*

<b>CASE NUMBER:</b>	Comprehensive Plan Map Change / Neighborhood Plan Change / Zone Change Case No.CPC-NPC-ZC19-09
<b>AMANDA APPLICATION NO:</b>	19-111617-ZO, 19-115341-ZO & 19-111618-ZO
<b>HEARING INFORMATION:</b>	Salem Planning Commission, Tuesday, August 20, 2019, 5:30 P.M., Council Chambers, Room 240, Civic Center, 555 Liberty Street SE, Salem, OR 97301
<b>PROPERTY LOCATION:</b>	1443 45th Avenue NE, Salem, OR 97301
<b>OWNER(S):</b>	Peters Trust
<b>APPLICANT(S):</b>	Nature's Kick Corporation (Glenn & Kim Peters)
<b>REPRESENTATIVE(S):</b>	Saalfeld Griggs, PC (Mark Shipman)
<b>DESCRIPTION OF REQUEST:</b>	<p><b>SUMMARY:</b> A Minor Comprehensive Plan Map Amendment, Neighborhood Plan Map Amendment, and Zone Change from RA (Residential Agriculture) to IC (Industrial Commercial).</p> <p><b>REQUEST:</b> A consolidated Minor Comprehensive Plan Map Amendment from "Single Family Residential" to "Industrial Commercial," Minor Neighborhood Plan Map Amendment from "Single Family" to "Industrial Commercial," and Zone Change from RA (Residential Agriculture) to IC (Industrial Commercial) for property approximately 3.25 acres in size and located at 1443 45th Avenue NE (Marion County Assessor Map and Tax Lot Number: 072W19DB00100).</p>
<b>CRITERIA TO BE CONSIDERED:</b>	<p><b><u>COMPREHENSIVE PLAN CHANGE</u></b></p> <p>Pursuant to SRC 64.025(e) (2), the greater the impact of the proposed Minor Plan Map Amendment, the greater the burden on an applicant to demonstrate that the criteria are satisfied. A Minor Plan Map Amendment may be made if it complies with the following:</p> <p>(A) The Minor Plan Map Amendment is justified based on the existence of one of the following:</p> <ul style="list-style-type: none"><li>(i) Alteration in Circumstances. Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.</li><li>(ii) Equally or Better Suited Designation. A demonstration that the proposed designation is equally or better suited for the property than the existing designation.</li><li>(iii) Conflict Between Comprehensive Plan Map Designation and Zone Designation. A Minor Plan Map Amendment may be granted where there is a conflict between the Comprehensive Plan Map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the Comprehensive Plan Map designation. In determining whether the zoning designation is the more appropriate designation, the following factors shall be considered:<ul style="list-style-type: none"><li>(aa) Whether there was a mistake in the application of a land use</li></ul></li></ul>

- designation to the property;
  - (bb) Whether the physical characteristics of the property are better suited to the uses in zone as opposed to the uses permitted by the Comprehensive Plan Map designation;
  - (cc) Whether the property has been developed for uses that are incompatible with the Comprehensive Plan Map designation; and
  - (dd) Whether the Comprehensive Plan Map designation is compatible with the surrounding Comprehensive Plan Map designations.
- (B) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed plan map designation;
  - (C) The proposed plan map designation provides for the logical urbanization of land;
  - (D) The proposed land use designation is consistent with the Salem Area Comprehensive Plan and applicable Statewide planning goals and administrative rules adopted by the Department of Land Conservation and Development; and
  - (E) The amendment is in the public interest and would be of general benefit.

### **ZONE CHANGE**

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

1. A quasi-judicial zone change shall be granted if the following criteria are met:
  - A. The zone change is justified based on the existence of one or more of the following:
    - (1) A mistake in the application of a land use designation to the property.
    - (2) 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.
    - (3) 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.
  - B. If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.
  - C. The zone change conforms with the applicable provisions of the Salem Area Comprehensive Plan.
  - D. The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.
  - E. If the zone change requires a comprehensive plan change from an industrial use designation to a non-industrial use designation, or from a commercial or employment designation to any other use designation, a demonstration that the proposed rezone is consistent with its most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed rezone; or include both the demonstration and an amendment to the Comprehensive Plan.
  - F. The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the

- measures associated with, or conditions imposed on, the zone change.
- G. The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.

**HOW TO PROVIDE TESTIMONY:**

Any person wishing to speak either for or against the proposed request may do so in person or by representative at the Public Hearing. Written comments may also be submitted at the Public Hearing. Include case number with the written comments. Prior to the Public Hearing, written comments may be filed with the Salem Planning Division, Community Development Department, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision.

**HEARING PROCEDURE:**

The hearing will be conducted with the staff presentation first, followed by the applicant's case, neighborhood organization comments, testimony of persons in favor or opposition, and rebuttal by the applicant, if necessary. The applicant has the burden of proof to show that the approval criteria can be satisfied by the facts. Opponents may rebut the applicant's testimony by showing alternative facts or by showing that the evidence submitted does not satisfy the approval criteria. Any participant may request an opportunity to present additional evidence or testimony regarding the application. A ruling will then be made to either continue the Public Hearing to another date or leave the record open to receive additional written testimony.

Failure to raise an issue in person or by letter prior to the close of the Public Hearing with sufficient specificity to provide the opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on this issue. A similar failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

Following the close of the Public Hearing a decision will be issued and mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision.

**CASE MANAGER:**

**Bryce Bishop, Planner II**, City of Salem Planning Division, 555 Liberty Street SE, Room 305, Salem, Oregon 97301. Telephone: 503-540-2399; E-mail: [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net).

**NEIGHBORHOOD ORGANIZATION:**

East Lancaster Neighborhood Association (ELNA), Susann Kaltwasser, Land Use Chair; Phone: (503) 363-3998; Email: [susann@kaltwasser.com](mailto:susann@kaltwasser.com).

**DOCUMENTATION AND STAFF REPORT:**

Copies of the application, all documents and evidence submitted by the applicant are available for inspection at no cost at the Planning Division office, City Hall, 555 Liberty Street SE, Room 305, during regular business hours. Copies can be obtained at a reasonable cost. The Staff Report will be available seven (7) days prior to the hearing, and will thereafter be posted on the Community Development website:

<https://www.cityofsalem.net/Pages/planning-notices-decisions.aspx>

**ACCESS:**

The Americans with Disabilities Act (ADA) accommodations will be provided on request.

**NOTICE MAILING DATE:**

July 31, 2019

***PLEASE PROMPTLY FORWARD A COPY OF THIS NOTICE TO ANY OTHER OWNER, TENANT OR LESSEE.***

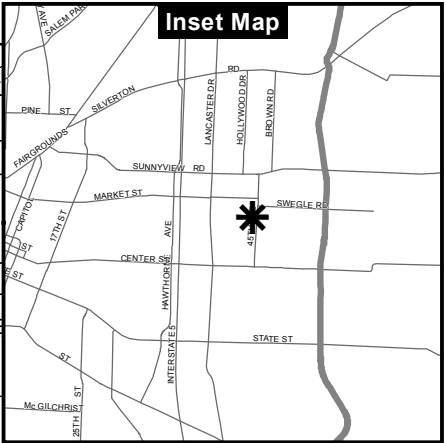
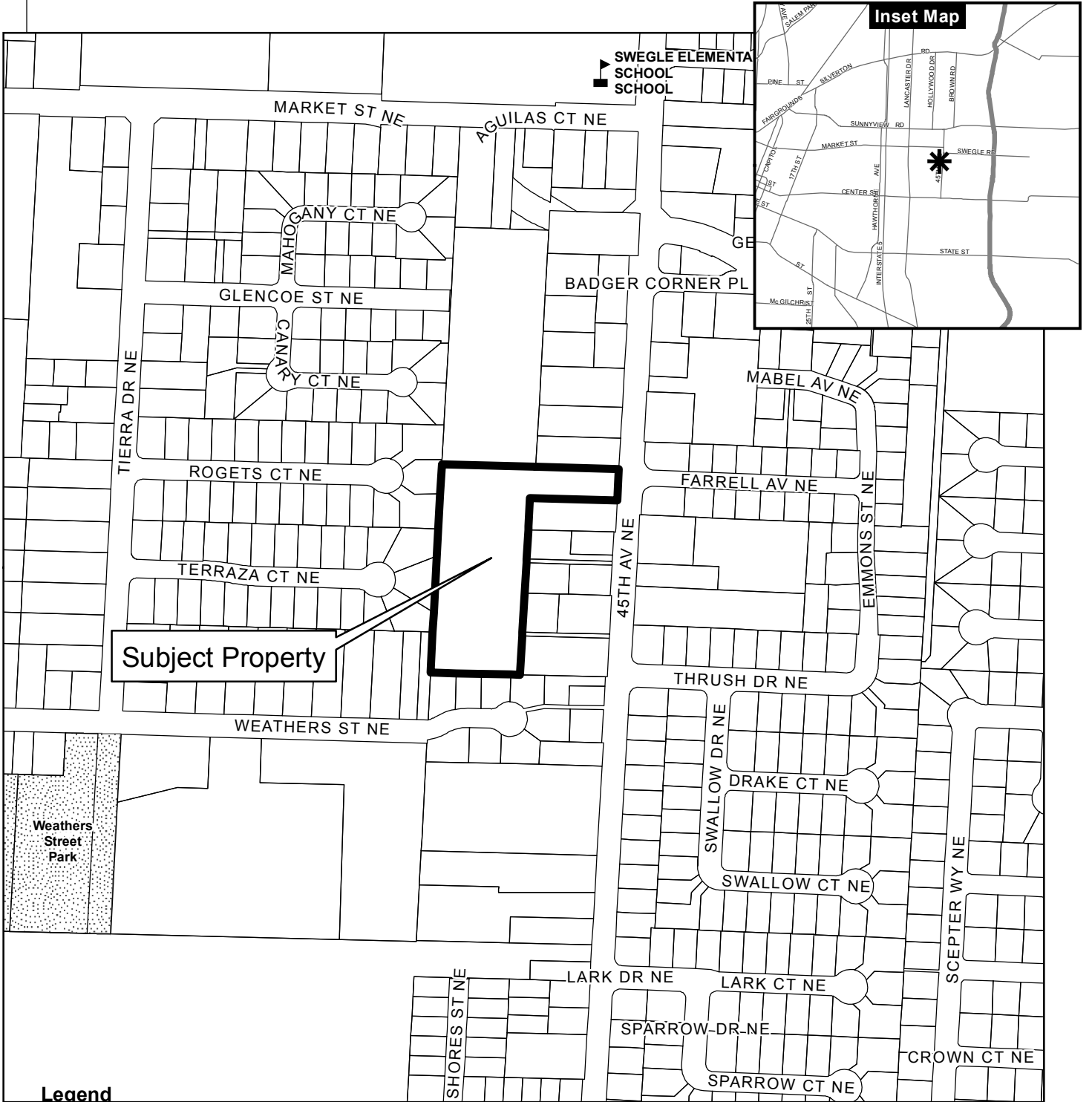
**For more information about Planning in Salem:**  
<http://www.cityofsalem.net/planning>

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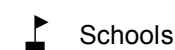

*It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, as provided by Salem Revised Code Chapter 97. The City of Salem also fully complies with Title VI of the Civil Rights Act of 1964, and related statutes and regulations, in all programs and activities. Disability-related modification or accommodation, including auxiliary aids or services, in order to participate in this meeting or event, are available upon request. Sign language and interpreters for languages other than English are also available upon request. To request such an accommodation or interpretation, contact the Community Development Department at 503-588-6173 at least three business days before this meeting or event.  
TTD/TTY telephone 503-588-6439 is also available 24/7*

# Vicinity Map

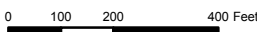
## 1443 45th Avenue NE



### Legend

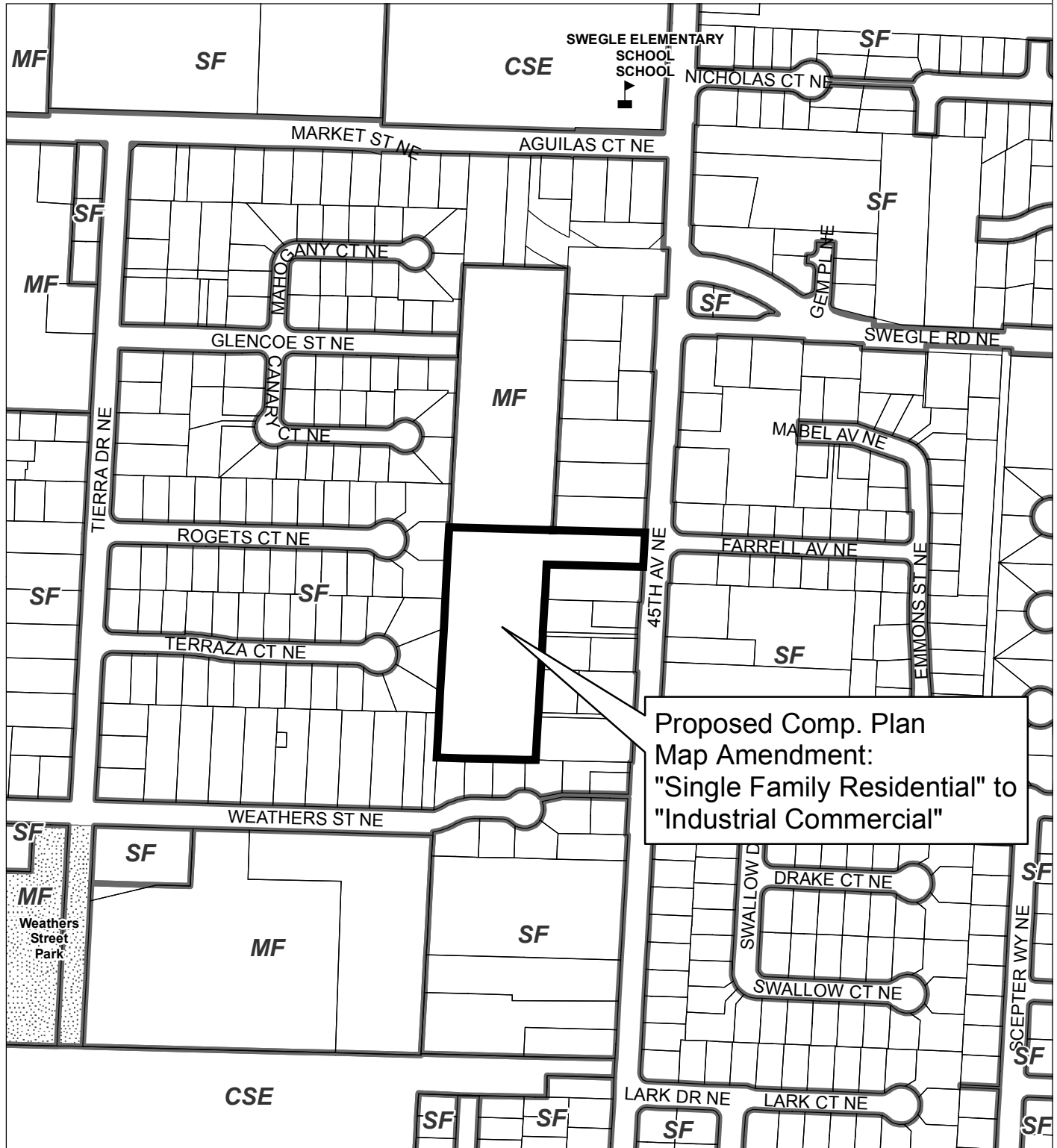
-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

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



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# Comprehensive Plan Map



Proposed Comp. Plan Map Amendment:  
 "Single Family Residential" to  
 "Industrial Commercial"

## Legend

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

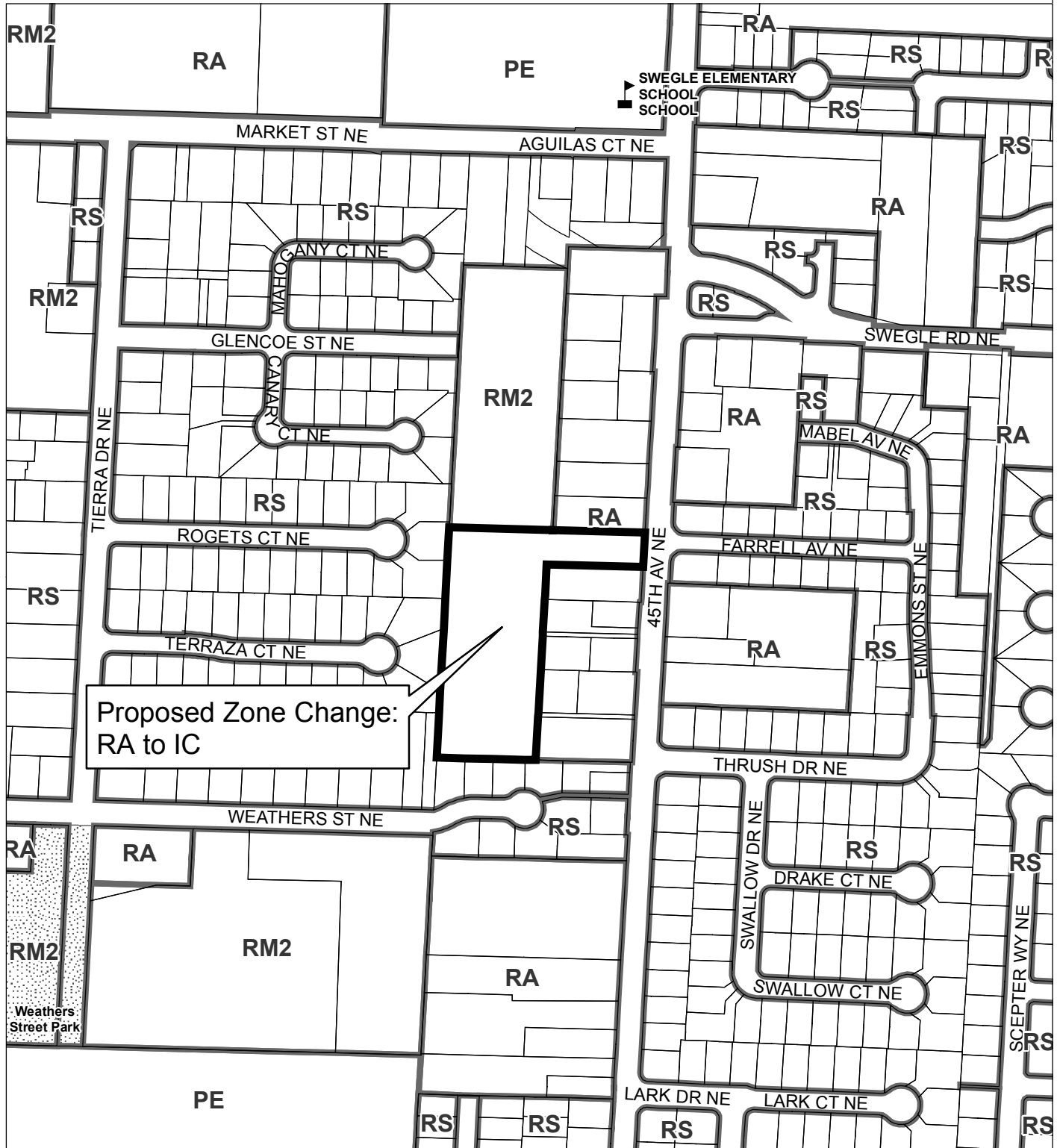
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# Zoning Map



## Legend

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

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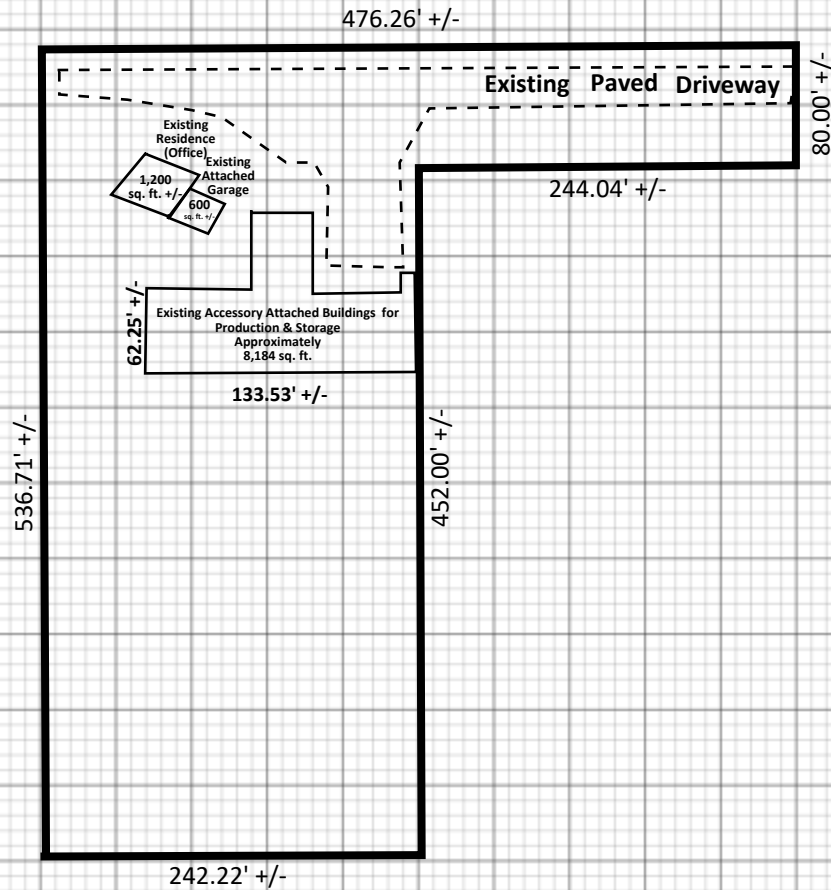
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Community Development Dept.



# EXISTING CONDITIONS PLAN

May 16, 2019

- Consolidated Comprehensive Plan Amendment & Zone Change Request
- Applicant: Nature's Kick Corporation
- Owner: Peters Trust, a revocable trust dated June 16, 1989
- Location: 1443 45th Ave. N, Salem
- Scale: 1 cm. = 10'
- Property below is orientated to the North
- Total Site Area: 3.25 ac. +/- or approximately 141,570 sq. ft.



Note: For stormwater drainage information, please see Stormwater Map 57-476

## EXHIBIT C





**COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT  
CONSOLIDATED WRITTEN STATEMENT**

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**I. BACKGROUND INFORMATION**

**APPLICANT:** Nature’s Kick Corporation  
1443 45th Avenue NE  
Salem, OR 97301

**OWNER:** Peters Trust, a revocable trust  
dated June 16, 1989  
1443 45th Avenue NE  
Salem, OR 97301

**APPLICANT’S  
REPRESENTATIVE:** Mark D. Shipman, Attorney  
Nathan K. Riemersma, Attorney  
Saalfeld Griggs PC  
250 Church Street SE, Suite 200  
Salem, OR 97301

**TYPE OF APPLICATION:** The Applicant is requesting  
amendments to the  
Comprehensive Plan and  
Zoning Map designations for  
the Subject Property.

**PROPERTY LOCATION:** The Subject Property is a 3.25  
+/-acre parcel located at 1443  
45th Ave NE Salem, Oregon  
(Marion County Assessor’s Map  
No. 07S-2W-19DB, Tax Lot  
100).

**APPLICABLE REVIEW &  
DECISION CRITERIA:** Salem Revised Code (SRC)  
Sections 265.005 and 64.025



**II. PROJECT AND PROPERTY DESCRIPTION**

**(A) SUBJECT PROPERTY INFORMATION:**

The property subject to this application is located at 1443 45<sup>th</sup> Ave NE, Salem, Oregon, and consists of Tax Lot 100 located in Township 7 South, Range 2 West, Section 19, in Marion County, Oregon (the “**Subject Property**”). The Subject Property is owned by the Peters Trust, a revocable trust dated June 16, 1989, (the “**Owner**”) and is the principal place of business for Natures Kick Corporation, an Oregon corporation (collectively the “**Applicant**” or “**Nature’s Kick**”). Since 1987, the Subject Property has been the sole production site for Original Honeystix, a single serve honey product that utilizes honey from local and regional beekeepers (“**Honeystix**”) (collectively the “**Business**” or the “**Operation**”).

**(B) BACKGROUND INFORMATION:**

The Subject Property is approximately 3.25 acres in size, is designated Single Family Residential (SFR) in the Salem Comprehensive Plan and is correspondingly zoned Residential Agriculture (RA). The parcel was annexed into the City of Salem's (the "**City**") City Limits in December of 1979 and assigned a zoning designation of RA. In 1987, Applicant purchased the Subject Property for the purpose of producing Honeystix. See **Exhibit "A,"** the vesting deed. Prior to purchasing the Subject Property, Applicant wanted to ensure its anticipated use would be in conformance with the zoning code. The City evaluated the proposed use on the Subject Property and found that it was "in conformance with the City's zoning requirements for a residential agricultural zone" and had "no objection to its proposed use." See **Exhibit "B,"** (the "**Elegant Letter**"). The Elegant Letter does not specify whether the City viewed the proposed use as a home occupation as defined in SRC 700.020, but Applicant has learned from subsequent communications with City Planning Staff that the City has viewed and treated the operation as a home occupation. The City issued a building permit to build a 24' by 36' pole barn to act as the production facility. The City also approved the temporary use of a mobile home as a residence on the property for a period of nine months in order to construct Owner's permanent residence.

While communications from City Staff indicate that the City viewed the use on the Subject Property as a home occupation, it is unclear whether the use was ever compliant with a home occupation use. The residence appears to be approximately 1200 square feet and the initial production area was approximately 600 square feet, which exceeded the allowable 25 percent of the dwelling. Additionally, at the time the use was established, the business employed six people, three residents and three non-residents. It seems from the establishment of the use, the Business never fit the mold of a home occupation.

Nevertheless, the Business was allowed to expand multiple times. In approximately 1989, the City approved an approximate 850 square foot pole barn to expand the production area.

In 2013, another expansion occurred. Applicant applied for permission to build an additional 60' x 60' accessory structure for storage. At this point in time, City Staff noticed a discrepancy in the zoning for the Subject Property, in which the zoning was inadvertently changed to RM2; once recognized, Marion County allowed Applicant to choose which zone it would prefer for the Subject Property and Applicant decided to maintain RA zoning. Applicant was allowed to build the second expansion without a conditional use permit.

In 2018, Applicant was issued a building permit for a steel structure designed to protect existing structure and enclose two loading bays. At this point, the City and Applicant realized that the current zoning is not compatible with the historical use on the Subject Property.

The Subject Property contains approximately 10,000 square feet of building space which includes a residence (now used as office space), and the production space for the Operation. See **Exhibit "C,"** the existing conditions plan.

Accordingly, the Owner and Nature's Kick have been evaluating the highest and best use of the building and the Subject Property. The size and uses of the building are more consistent with the Industrial Commercial (IC) Comprehensive Plan designation and zoning district. Applicant would like

this request to go through the Collective (a.k.a. Consolidated) Process before the Planning Commission and City Council.

### III. COMPREHENSIVE PLAN CHANGE:

The Salem Revised Code (“**SRC**”) establishes procedures to be used when considering plan amendments. The SRC identifies two types of comprehensive plan amendments: (1) Major plan map amendments, which includes any amendment to the urban growth boundary, or an amendment to the comprehensive plan map or a general land use map in a neighborhood plan, where the amendment involves the creation, revision, or implementation of broad public policy generally affecting more than one property owner or a large number of individual properties; and (2) Minor plan map amendments, which includes amendments to either the comprehensive plan map or a general land use map in a neighborhood plan, where the amendment affects only a small number of properties or a closely circumscribed set of factual circumstances. Applicant is requesting a minor plan map amendment, which may be initiated by Subject Property owners with an application form that complies with SRC 64.025(d)(2).

**SRC 64.025(e)(2) *Minor plan map amendment.* The greater the impact of the proposed minor plan map amendment, the greater the burden on an applicant to demonstrate that the criteria are satisfied. A minor plan map amendment may be made if it complies with the following:**

- A. **The minor plan map amendment is justified based on the existence of one of the following:**
  - i. ***Alteration in circumstances.* Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.**
  - ii. ***Equally or better suited designation.* A demonstration that the proposed designation is equally or better suited for the property than the existing designation.**
  - iii. ***Conflict between comprehensive plan map designation and zone designation.* A minor plan map amendment may be granted where there is a conflict between the comprehensive plan map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the comprehensive plan map designation. In determining whether the zoning designation is the more appropriate designation, the following factors shall be considered:**
    - aa. **Whether there was a mistake in the application of a land use designation to the property;**
    - bb. **Whether the physical characteristics of the property are better suited to the uses in zone as opposed to the uses permitted by the comprehensive plan map designation;**

- cc. **Whether the property has been developed for uses that are incompatible with the comprehensive plan map designation; and**
- dd. **Whether the comprehensive plan map designation is compatible with the surrounding comprehensive plan map designations;**

**Proposed Finding:** The proposal is justified based on (i) and (ii). The Owner purchased the Subject Property in 1987 with the purpose of siting the Applicant's Operation on the Subject Property. Applicant wanted to ensure that its use was allowed on the Subject Property, and obtained the Elegant Letter from John Elegant, Building and Safety Administrator for the City of Salem, which stated that "[t]he City has evaluated the activities of Mr. Peters business, Nature's Kik. [Sic] We found that the proposed activity is in conformance with the City's zoning requirements for a residential agricultural zone, and therefore have no objection to the proposed use." See Exhibit B. The City also allowed a number of expansions to the Business adding production and storage space. In 2018, an alteration in circumstances occurred, when Applicant requested a building permit to build steel structure to enclose the loading bays and protect existing structures. After exchanging correspondence and multiple meetings with City staff, staff informed Applicant that the use was no longer appropriate on the Subject Property based on the Comprehensive Plan Designation and Zoning Designation, and that based on historical oversights by both Applicant and the City, a change in the comprehensive plan designation and zoning would be needed on the Subject Property in order to continue the use.

The Subject Property will be equally or better suited with an Industrial Commercial designation than the existing Single Family Residential designation. Applicant has operated the Honeystix Business on the Subject Property under the existing Single Family Residential designation since 1987. Applicant has maintained good relationships with neighbors, provided employment for many surrounding residents, and avoided creating any impacts to surrounding neighbors, or infrastructure problems. However, now the City Planning Staff has determined that the Applicant's use is no longer proper in the Single Family Residential designation. In order to continue the Operation on the Subject Property, a change to the Industrial Commercial designation is required. Applicant is proposing a limited use overlay on the Subject Property in order to ensure the comprehensive plan change does not alter the fabric of the neighborhood after the Operation ceases. Applicant proposes limiting the uses allowed at the property to the Honeystix Operation, single family residential uses, and multi family residential uses. Accordingly, the comprehensive plan change will allow Applicant to continue to operate its Business, which is a benefit to the community, while ensuring that the nature of the surrounding area is unaffected. Therefore, the proposed designation is equally or better suited for the Subject Property than the existing designation.

This criterion is satisfied.

- B. The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed plan map designation;**

**Proposed Finding:** The Subject Property is currently served with public facilities and services necessary to support the uses allowed by the proposed comprehensive plan map designation. The Subject Property is served by city water, city sewer services, city wastewater services, and city road facilities. Applicant is proposing to add a limited use overlay to the Subject Property, in order limit the uses allowed on the

Subject Property and minimize the impact on the public facilities, which are sufficient to serve the Applicant's Honeystix Operation, single family residential, and multifamily residential uses.

This criterion is satisfied.

**C. The proposed plan map designation provides for the logical urbanization of land;**

**Proposed Finding:** The proposed "Industrial Commercial" designation is a logical extension of nearby development patterns. The surrounding area is developed with a mix of residential, educational, and commercial uses. The property is near Blanchet Catholic School, Swegle Elementary School, and Salem Academy. Also nearby is are senior living and assisted living communities, Tierra Rose, the Woods at Willowcreek, and Lancaster Village. The Subject Property is located approximately .4 miles from Lancaster Dr. NE which is a major commercial corridor. Applicant is proposing to re-designate the Subject Property from Single Family Residential to Industrial Commercial. As previously stated, the proposed change would allow the Nature's Kick Operation to continue operating, as it has for over thirty years. At such time in the future, that the Nature's Kick Operation ceases to take place on the subject property, the limited use overlay will limit the uses on the property to single family residential uses and multi-family residential uses, which are consistent with the surrounding uses in the area. It is true that the proposed plan amendment will leave the Subject Property as an "island" of industrial commercial property, however the limitation on the uses of the Subject Property will allow the historical uses on the land to continue, and allow for residential uses in the future that are consistent with surrounding uses.

This criterion is satisfied.

**D. The proposed land use designation is consistent with the Salem Area Comprehensive Plan and applicable statewide planning goals and administrative rules adopted by the Department of Land Conservation and Development; and**

**Proposed Finding:** The applicable Goals and Policies of the Comprehensive Plan are addressed as follows:

Salem Urban Area Goals and Policies, Residential Development Goal (Page 30, Salem Comprehensive Policies Plan):

*Policy E. 8. Residential areas shall be protected from more intensive land use activity in the abutting zones.*

**Proposed Finding:** Applicant has proposed a limited use overlay on the Subject Property to ensure that the residential areas surrounding the Subject Property is protected from more intensive land use activity. This overlay would ensure that the only uses taking place on the Subject Property would be residential in nature, or the same or substantially similar to Applicant's historical Business that has been operating on the Subject Property for decades without disturbing its surrounding residential neighbors. Applicant is willing to comply with any required setbacks to act as a buffer between the Operation and any surrounding residences.

The proposal is consistent with this policy.

*H. Economic Development*

*GOAL: Strengthen the economic base of the Salem area to sustain the economic growth necessary to provide adequate employment opportunities and maintain community livability.*

*Goal: Grow and attract traded-sector businesses especially businesses with above average wages.*

1. *Diversify the basic economic sector of the Salem urban area through:*
  - a. *Expansion of existing industrial enterprises and location of new, clean industries.*
  - b. *Expansion of the light manufacturing.*
  - c. *Expansion of businesses with an existing presence in Salem or businesses that provide goods and services to existing businesses in Salem*
  - d. *Expansion of businesses who want to locate in Salem because of Salem's competitive advantages and characteristics.*

**Proposed Finding:** The Nature's Kick Operation is an existing industrial enterprise that is also a clean industry. The product is a natural honey product packaged in an environmentally safe wax packaging. The packaging process consists of warming the product and operating custom machines to fill the packaging. The site doesn't create noise issues, pollution, or excess traffic. The use could be described as a light manufacturing of food products. The business has an existing presence in the City and has been providing a healthy product and employment opportunities to Salem residents for nearly two decades. The Business wants to maintain its location in the City limits because of its advantages and characteristics. The Business is also ideally located within the City of Salem, as it has easy access to I-5 and Highway 22, and is located near the eastern border of the City, near EFU land in the East Marion County area proximate to potential suppliers of the natural honey product.

*I. Industrial Development*

*Policy I.1. Maintain a long-term (20 year) industrial land inventory which provides a full range of small, medium, and large parcel sizes and locations to sustain a competitive market for industrial sites. Maintaining a long-term supply of industrial land will require identifying and preserving key high value industrial land, especially where the City has made substantial investments in infrastructure. High value industrial land has the following characteristics: it is designated for industrial uses, in flat parcels, most frequently in large parcels at least 10 acres in size, located within an industrial district, has direct access to a state highway or I-5, and is serviced of planned to be serviced with water and wastewater infrastructure.*

**Proposed Finding:** Based on the criteria in Policy I.1, the Subject Property has few characteristics of high value industrial land; while it is under the 10-acre minimum described in the policy, it is a relatively flat parcel. The parcel has access to I-5 via Market Street NE and access to Highway 22 by way of Lancaster Drive NE. The Subject Property is currently serviced by water and wastewater infrastructure.

Amending the Comprehensive Plan Map to designate the Subject Property Industrial Commercial would increase the overall acreage available within the UGB for industrial uses and commercial uses.

Policy I.7. *Industrial land shall be subject to industrial development standards which ensure that development and operation is compatible with surrounding land uses.*

**Proposed Finding:** Industrial or commercial development of the Subject Property would be subject to development standards set forth in SRC Chapter 551 (Industrial Commercial zone), including perimeter setbacks, landscaping, screening, and industrial performance standards. These standards are established to ensure compatibility with surrounding uses, consistent with this policy.

Policy I.10. *Traffic generated by industrial uses should be diverted away from residential areas when feasible and should have convenient access to arterial or collector streets.*

**Proposed Finding:** The Subject Property is located on 45th Avenue NE, which is classified as a collector street on the City's Functional Street Classification Map. Additionally, the Subject Property is located near Market Street NE which is classified as a Minor Arterial, and Lancaster Drive NE, which is a Major Arterial. Traffic would have convenient access to collector and arterial streets and is able to be diverted away from residential areas.

## **THE APPLICABLE STATEWIDE PLANNING GOALS ARE ADDRESSED AS FOLLOWS:**

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

**Proposed Finding:** A public hearing notice will be mailed to affected property owners, all property owners within 250 feet of the Subject Property and to the East Lancaster Neighborhood Association (ELNA). This satisfies Citizen Involvement described in Goal 1.

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

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

**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.*

**Proposed Finding:** There are no known scenic, historical, natural, or cultural resources on the affected parcel. The application will be reviewed for compliance with the City's tree preservation ordinance, historic preservation ordinance, and any applicable wetland standards at the time of any proposed expansion or additional development.



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

**Proposed Finding:** The City’s adopted facility plans implement Goal 6. Development is required to meet applicable State and Federal requirements for air and water quality and applicable city water, sewer and storm drainage system master plan requirements. The City is responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality.

There are no identified significant natural resources on the Subject Property. The Business operations have no significant impacts to the quality of the air, water, or land. The Application is consistent with Goal 6.

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

**Proposed Finding:** There are no landslide hazards existing on the Subject Property. The City’s tree protection, landslide, and floodplain development standards will be applied at the time of any proposed future development. This proposal is consistent with Goal 7.

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

**Proposed Finding:** The proposal will change the site from the existing “Single Family Residential” designation to “Industrial Commercial.” The existing designation provides mainly for residential uses, and very few other activities. The “Industrial Commercial” designation provides for the IC zone, which allows a wide range of commercial and industrial uses. While these uses will be limited by an overlay, the “Industrial Commercial” designation allows for the continuation of the economic activities taking place on the Subject Property, which provide employment opportunities and economic development to the City and the surrounding neighbors. The proposal is consistent with this Goal.

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

**Proposed Finding:** The proposed designation of “Industrial-Commercial” and Industrial Commercial zoning would allow for develop of Single Family housing and multi-family housing as a conditional use. The proposal is consistent with Goal 10.

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

**Proposed Finding:** The City’s adopted Comprehensive Plan Growth Management, Commercial, Industrial, and Transportation Goal and Policies and adopted Stormwater and Water Master Plans implement the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The City’s capital improvement program and its minimum codes standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and

appropriate public services and abilities essential for development will be provided to the Subject Property at levels that are adequate to serve the proposed use. The proposal is consistent with Goal 11.

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

**Proposed Finding:** Goal 12 is implemented by the Transportation Planning Rule (TPR). In summary, the TPR requires local governments to adopt Transportation System Plans (TSPs) and requires local governments to consider transportation impacts resulting from land use decisions and development. The key provision of the TPR related to local land use decisions is Oregon Administrative Rule 660-012-060. This provision is triggered by amendments to comprehensive plans and land use regulations that “significantly affect” a surrounding transportation facility (road, intersection, etc.) Where there is a “significant effect” on a facility, the local government must ensure that any new allowed land uses are consistent with the capacity of the facility. In the context of a site-specific comprehensive plan change request, such as this proposal, a “significant effect” is defined under Oregon Administrative Rule (OAR) 660-012-0060(1) as either an amendment that “allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility,” or an amendment that would reduce the performance standards of an existing or planned facility below the minimum acceptable level identified in the TSP.”

Comprehensive plan change applicants are required to submit a TPR analysis to demonstrate that their request will not have a “significant effect” on the surrounding transportation system, as defined above.

The Applicant submitted an analysis in consideration of the requirements of the TPR. See **Exhibit “D,”** TPR analysis. The TPR analysis demonstrates while the proposed zone change may ordinarily have a significant effect on the surrounding transportation facilities, the limited use overlay combined with the proposed trip cap, effectively serve to manage the amount of traffic generated such that the current and proposed use of the Honeystix Operation on the Subject Property will not have a significant effect on the surrounding transportation system. The proposed Comprehensive Plan Change and Zone Change, as conditioned, will not satisfy the TPR as allowed by OAR 660-012-0060(2)(d) by limiting the total number of vehicle trips to 264 average daily trips.

**Statewide Planning Goal 14 – Urbanization:** *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Proposed Finding:** The Subject Property was annexed into the City of Salem in 1979 and is located within the Urban Growth Boundary and Urban Service Area. The transportation and utility infrastructure is sufficient in the area to continue serving the site. The Proposed Comprehensive Plan and Zone Change are consistent with the mix of uses in the vicinity. The proposal complies with Goal 14.

**E. The amendment is in the public interest and would be of general benefit.**

**Proposed Finding:** This comprehensive plan amendment would allow an established, successful business to remain in the City at its current site (where it has been thriving) and provide employment opportunities to neighbors for decades to come. It would also encourage and promote the production of a healthy, natural product that can be manufactured without pollution, excessive noise, or traffic.

This criterion is satisfied.

#### IV. ZONING MAP AMENDMENT

The SRC allows for amendments to the Zoning Map, which may be initiated by the owner of the property subject to the zone change, the owner's agent, the City Council or the Planning Commission (SRC 265.005(b)). Applicant is requesting an amendment to the Zoning Map in conjunction with its requested Comprehensive Plan designation change to General Commercial in order to allow the building on the Subject Property to resume operation as a viable and productive business in the City.

**SRC 265.005(e)(1) A quasi-judicial zone change shall be granted if all of the following criteria are met:**

**A. The zone change is justified based on the existence of one or more of the following:**

- i. A mistake in the application of a land use designation to the property;**
- ii. A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or**
- iii. A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.**

**Proposed Finding:** This request satisfies (i), (ii), and (iii).

(i): As previously described, a mistake has been made in the application of the land use designation to the Subject Property. Applicant purchased the Subject Property in 1987 with the express purpose of locating the Business Operation on the Subject Property. Applicant received the Elegant Letter (Exhibit B) stating that Applicant's use was consistent with the Residential Agricultural (RA) zone. Throughout the years, the City approved several Business expansions. After a building permit stalled, the Applicant and the City took a closer look at Applicant's use in relation to the RA zone and determined it likely never fit into the allowed uses in the RA zone. Therefore, a mistake was made in allowing the Applicant's use on the Subject Property and allowing expansion of the use in subsequent building applications.

(ii): The proposed zone change would be compatible with the vicinity's development pattern as the IC zone (as restricted by Applicants proposed limited use overlay) would allow Applicant's current Operation, single family housing, and multi-family residential, all of which are consistent with the surrounding uses. The Subject Property is surrounded by residential uses, multi-family residential uses in the form of assisted living facilities, and commercial uses along Lancaster Road NE.

(iii): The proposed zone change is equally or better suited for the Subject Property and the existing Business than the existing zone. The physical characteristics of the site itself are suited for the Business that currently operates on the Subject Property and better suited to the IC zone as the RA zone. The physical characteristics of the Subject Property as built and

proposed, offers ideal space for the Business Operation. Applicant owns ample land to create what little expansion is needed in the future, without significant disturbance and without disturbing surrounding properties, resources, or infrastructure. Further, the Operation current and proposed is logical and harmonious with the surrounding land uses as it has been coexisting with the surrounding land uses for decades. As noted earlier, the Business maintains a positive relationship with its neighbors, and provides employment to several people who live nearby. Access to transportation facilities are as suited to industrial or commercial development, single family residential, or multi-family residential as they would be for the uses allowed in the current RA zone.

This criterion is satisfied.

- B. If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.**

**Proposed Finding:** This proposed zone change is not a City-initiated zone change. Therefore, this criterion is not applicable.

- C. The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.**

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

- D. The zone change complies with applicable statewide planning goals and applicable administrative rules adopted by the Department of Land Conservation and Development.**

**Proposed Finding:** Findings addressing the Comprehensive Plan Change Criterion SRC 64.025(e)(2)(D), included earlier in this document, address the applicable Statewide Planning Goals and Oregon Administrative Rules for this consolidated comprehensive plan change and zone change request. The proposal satisfies this criterion.

- E. If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the comprehensive plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the comprehensive plan to address the proposed zone change; or include both the demonstration and an amendment to the comprehensive plan.**

**Proposed Finding:** The Subject Property is not currently designated for industrial, commercial, or employment use. Therefore, this criterion does not apply to the proposal.

- F. The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.**

**Proposed Finding:** The Subject Property has access to the public street network via frontage on 45<sup>th</sup> Avenue NE, designated as a collector street in the Salem Transportation System Plan. The Applicant has submitted a TPR analysis that is required to address the Transportation Planning Rule (OAR 660-012-0060). The TPR analysis demonstrates that the proposed Comprehensive Plan Change and Zone Change, as conditioned, will not have a significant impact on the transportation system as defined by OAR 660-012-0060 by limiting the total number of trips to the reasonable worst case of 264 daily trips in the original comprehensive plan designation.

- G. The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.**

**Proposed Finding:** Findings addressing the Comprehensive Plan Change Criterion SRC 64.025(e)(2)(B), included earlier in this document, address the public facilities and services available to support uses that would be allowed on the Subject Property. The Subject Property is currently served by City infrastructure. The proposal satisfies this criterion.

**CONCLUSION:**

Applicant requests approval of the requested combined Comprehensive Plan and Zone Change with the requested limited use overlay. This change would allow Applicant to continue operating a business that is beneficial to the surrounding neighbors and the community as a whole. Applicant offers a natural, healthy product, that is manufactured without pollution, noise, or excessive traffic. Applicant also employs several neighbors and has maintained good relationships with surrounding property owners throughout the years. Additionally, Applicant's location offers easy access to I-5 and Highway 22. The proposed Comprehensive Plan Amendment and Zoning Change are consistent with the Salem Area Comprehensive Plan, the Statewide Planning Goals, and the review criteria in the SRC. Therefore, the requested changes to the Comprehensive Plan and Zoning Map should be approved.