

**TO: PLANNING COMMISSION**

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

**DATE: March 19, 2024**

**SUBJECT: SUPPLEMENTAL STAFF REPORT FOR COMPREHENSIVE PLAN CHANGE / ZONE  
CHANGE CASE NO. CPC-ZC24-01; 650 15<sup>th</sup> STREET SE (AMANDA APPLICATION  
NO. 23-122305-PLN)**

## **BACKGROUND**

On February 27, 2024, the Planning Commission opened the public hearing for consolidated Comprehensive Plan Map Amendment and Zone Change Case No. 24-01. The Planning Commission made a motion to continue the public hearing to March 19, 2024.

## **SUPPLEMENTAL INFORMATION**

### **1. Floodplain Development**

Questions were raised at the hearing regarding floodplain and floodway restrictions on the property. The following information is intended to supplement the information provided by staff at the public hearing.

An existing floodway is located on the subject property as designated on the Federal Emergency Management Agency (FEMA) floodplain maps. A floodplain map is included as **Attachment A**.

Any new development within the floodplain requires a floodplain development permit and is subject to the requirements of [SRC Chapter 601](#). The existing structure located at 650 15<sup>th</sup> Street SE on the subject property is currently located within the FEMA designated floodway area and is nonconforming to current floodplain standards. Modifications to the existing structure, or construction of new structures within the floodway would require conformance with current floodplain development standards, as summarized below.

#### ***New Development in the Floodway***

Pursuant to [SRC 601.075\(d\)\(1\)\(A\)](#), any new development in the floodway area will require a no-rise certification from a registered professional civil engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed floodway encroachment do not result in any increase in flood levels during the occurrence of the base flood discharge.

Redevelopment of the property would require the no-rise certification. If the applicant cannot demonstrate there is not an increase in flood levels, the proposed encroachment into the floodway would not be permitted.

#### ***Substantial Improvements to Existing Structures***

Any modifications or improvements to the existing structure would be reviewed for substantial improvement, which is defined in [SRC Chapter 601.005](#) as:

*Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:*

*(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or*

*(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."*

If the proposed modifications or improvements to the structure met the definition of substantial improvement, the structure would be required to be brought into conformance with current floodplain development standards per [SRC 601.075](#). This could include removing portions of the building encroaching in the floodway, raising the finish floor elevation to meet the freeboard requirements in SRC Chapter 601, installing adequate flood vents and raising all mechanical and electrical equipment servicing the building.

### ***Removal of Vegetation within the Floodway***

Proposals to remove any additional vegetation in the floodway would be reviewed under the provisions of [SRC 601.090](#). This section establishes that:

*Vegetative ground cover and trees from the low water mark to the top of the bank shall be preserved, conserved, and maintained according to the following provisions:*

- (a) All non-native vegetation that would significantly affect the flood carrying and containment capacity of the floodway shall be removed.*
- (b) Any vegetation planted or permitted to grow within the floodway shall be compatible with the flood protection standards set forth in this chapter.*
- (c) Vegetation shall be planted or permitted to grow as necessary to stabilize the floodway slope and minimize erosion.*
- (d) Riparian vegetation removed during development shall be replaced with native vegetation which shall be compatible with and enhance the riparian environment.*
- (e) Plans for removal and replacement of riparian vegetation shall be submitted and approved by the Director prior to any clearing, excavation, grading, or construction.*

At time of development, the proposal would be reviewed against this section to ensure there are no impacts to the floodway in accordance with these provisions. Removal of trees and native vegetation within 50-feet of the creek is prohibited without a permit under the provisions in SRC Chapter 808 relating to riparian corridors.

## **2. Additional Findings related to compatibility**

Below are additional findings addressing SRC 64.025(e)(2)(A)(ii) and SRC 265.005(e)(1)(A)(i):

**SRC 64.025(e)(2)(A): The Minor Plan Map Amendment is justified based on the existence of one of the following:**

- (i) Alteration in Circumstances. Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate.**
- (ii) Equally or Better Suited Designation. A demonstration that the proposed designation is equally or better suited for the property than the existing designation.**
- (iii) Conflict Between Comprehensive Plan Map Designation and Zone Designation. A Minor Plan Map Amendment may be granted where there is conflict between the Comprehensive Plan Map designation and the zoning of the property, and the zoning designation is a more appropriate designation for the property than the Comprehensive Plan Map**

**SRC 265.005(e)(1)(A). The zone change is justified based on 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 zone would be compatible with the vicinity's development pattern; or**
- (iii) A demonstration that the proposed zone change is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.**

**Findings:** The approval of the requested Comprehensive Plan Map Amendment and Zone Change is contingent on compliance with one of the three approval criteria listed in both SRC 64.025 and SRC 265.005. In the applicant's written statement, the applicant addresses that the Comprehensive Plan Map Amendment change is equally or better suited for the property and that the Zone Change is justified because a mistake in the application of a land use designation to the property was made. Staff does not concur there is a mistake in the Comprehensive Plan Map or Zoning Map. The designation and zoning change were changed by 'Our Salem' which was adopted by City Council in Ordinance Bill No. 10-22 after proper notice to the property owner.

As discussed, a deed restriction was recorded against the subject properties prohibiting them from development of residential and agricultural uses. This deed restriction was provided to City staff after the effective date of the 'Our Salem' changes to the subject property. The applicant has proposed to change both properties to their previous designation and zone of Industrial and IG to allow for Industrial uses. The subject property is currently vacant and has been for over a year. Specific future uses have not been provided by the applicant. Staff addressed how the proposed designation and zone could be equally or better suited than the current in the [previous staff report](#).

The Planning Commission discussed the need for mitigation between the Multi-Family zoned properties surrounding the subject properties in order to meet the criteria of *equally or better suited than the existing designation* and requested staff return with proposed mitigation measures. In making this request, the Commission noted that the properties adjacent to the subject property were rezoned to multi-family through 'Our Salem' due to their proximity to long established residential areas, access to transit, walking distance to an elementary school, Tokyo University, and Willamette University, and at the request of Willamette University. Staff's research indicates that the surrounding properties do not have similar DEQ restrictions on them, indicating they may be redeveloped for housing in the future.

Staff considered both limiting the uses in the proposed zone and on-site measures such as screening and landscaping. In comparing the uses currently allowed on the subject property and those allowed in the proposed zones, staff evaluated which uses could be restricted to address the concerns with the compatibility to the surrounding area. The decision criteria require the proposed designation and zone to *be equally or better suited* as the current zoning. With the below list of restricted uses in the IG zone, the proposal would allow for more uses than the existing RM-II zone while restricting those uses which can generate pollutants, noise, sediment, and water contamination. None of the uses listed in Condition 1 are currently permitted within the existing zoning district.

Additional measures to lessen the overall impact of industrial uses on residential uses are recommended as conditions of approval, such as screening for all types of outdoor storage, paving instead of gravel and additional landscaping when future development occurs.

Staff provided the applicant with the conditions listed below and suggested an alternative zone which may provide for a lesser impact to the surrounding areas. The applicant declined to revise their proposal to request a different zone.

The IG zone allows uses which, due to the amount of traffic, noise generation, and nature of the use may not be entirely compatible with the surrounding RM-II zoned area. Staff recommends a condition of approval which limits the more intrusive uses which are listed as permitted uses in said zone. In order to ensure the proposed zone is better suited for the property than the existing zone, and the potential impacts of the proposed zone and any development of the property on the immediate neighborhood are minimized, the following conditions of approval are recommended.

**Condition 1:** The following uses/activities allowed within the IG (General Industrial) zone shall be prohibited uses/activities allowed on the subject properties:

General Industrial Zoning District	
Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Heavy vehicle and trailer service and storage	N
Major event entertainment	N
Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General manufacturing	N
Heavy manufacturing	N
Aviation facilities	N
	P - Transit stop shelters

Passenger ground transportation services	N - All other passenger ground transportation facilities
Marine facilities	N
Fuel dealers	N
Waste-related facilities	N
Petroleum and natural gas production	N
Surface mining	N
Agriculture and forestry services	N
Keeping of livestock and other animals	N
Animal services	P - All other uses allowed
	N - Boarding

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

- Condition 2:** Any vehicle storage areas shall be paved with a hard surface material meeting Public Works Design Standards.
- Condition 3:** Outdoor storage shall be screened with landscaping or a site-obscuring fence or wall from abutting residentially zoned properties to the north, east, and west.
- Condition 4:** At the time of development, a minimum of 15% of the development site shall be landscaped meeting the Type A standards set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicular use areas, may count towards this requirement.

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt the facts and findings of the staff report and **APPROVE** the following actions for the subject properties that are approximately 0.99 acres in size and located at 650 15<sup>th</sup> Street SE (Marion County Assessor’s Map and Tax Lot Numbers: 073W26CD / 4900; 4800):

- A. APPROVE Minor Comprehensive Plan Map Amendment from "Multiple-Family Residential" to "Industrial;" and
- B. APPROVE Zone Change from RM-II (Multiple-Family Residential II) to IG (General Industrial) subject to the following **revised** conditions of approval:

**Condition 1:** The following uses/activities allowed within the IG (General Industrial) zone shall be prohibited uses/activities allowed on the subject properties:

**General Industrial Zoning District**

Use	Limitations & Qualifications
Motor vehicle and manufactured dwelling and trailer sales	N
Motor vehicle services	N
Commercial parking	N
Heavy vehicle and trailer sales	N
Heavy vehicle and trailer service and storage	N
Major event entertainment	N
Cleaning plants	N
Industrial services	N
Heavy wholesaling	N
General manufacturing	N
Heavy manufacturing	N
Aviation facilities	N
Passenger ground transportation services	P - Transit stop shelters
	N - All other passenger ground transportation facilities
Marine facilities	N
Fuel dealers	N
Waste-related facilities	N
Petroleum and natural gas production	N
Surface mining	N
Agriculture and forestry services	N
Keeping of livestock and other animals	N
Animal services	P - All other uses allowed
	N - Boarding

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**Condition 2:** Any vehicle storage areas shall be paved with a hard surface material meeting Public Works Design Standards.

**Condition 3:** Outdoor storage shall be screened with landscaping or a site-obscuring fence or wall from abutting residentially zoned properties to the north, east, and west.

**Condition 4:** At the time of development, a minimum of 15% of the development site shall be landscaped meeting the Type A standards set forth in SRC Chapter 807. Other

required landscaping under the UDC, such as landscaping required for setbacks or vehicular use areas, may count towards this requirement.

Attachments:

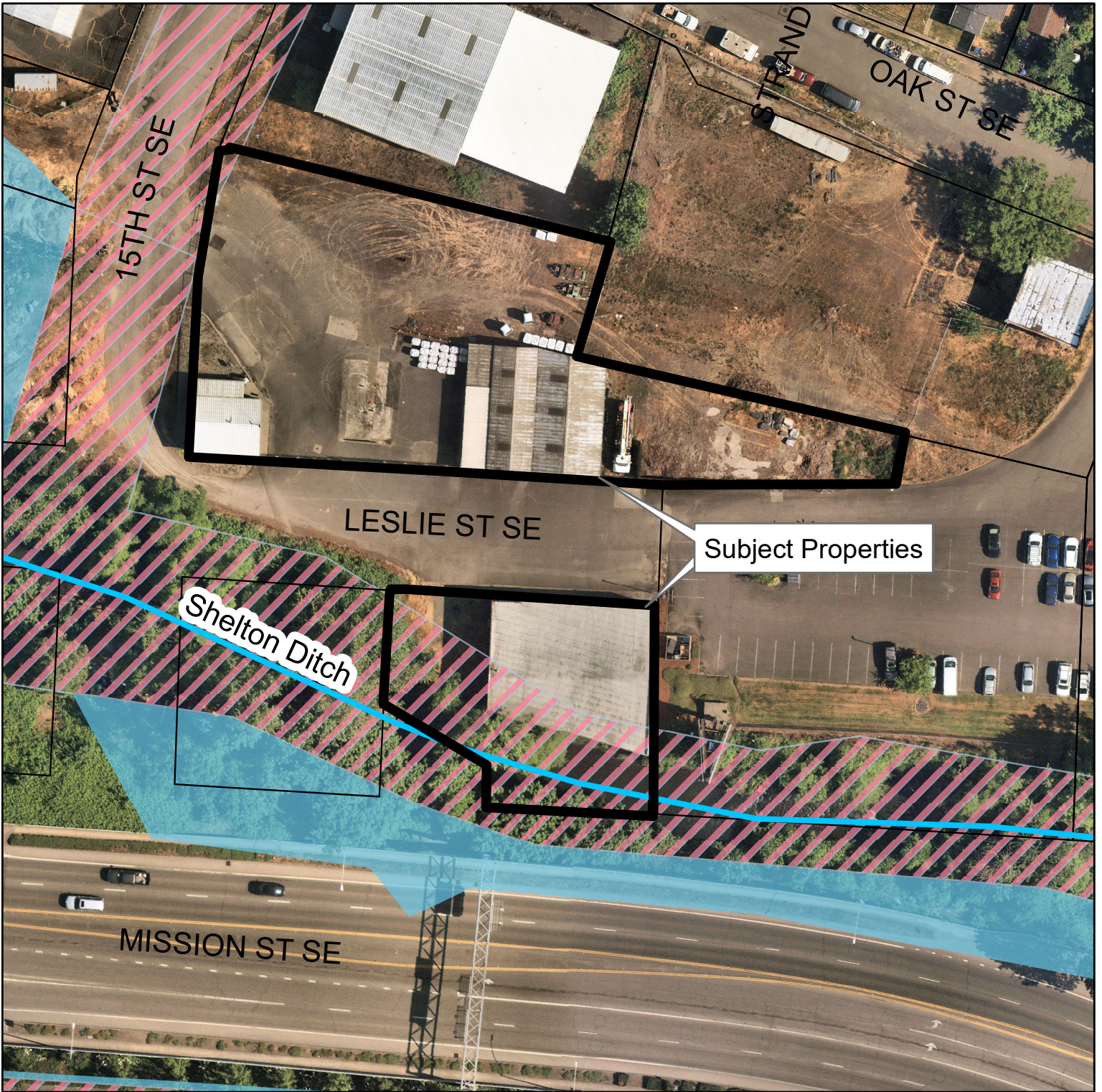
(A) Floodplain Map

Prepared by Peter Domine, Planner II





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# 650 15th Street SE Shelton Ditch Floodplain



## Legend

-  Subject Properties
-  AE Floodplain
-  Taxlots
-  AE Floodway

