



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council
FROM: Dan Fleishman, Director of Planning and Development
DATE: July 16, 2018
SUBJECT: Ordinance 1022 Amending Stayton Comprehensive Plan Map and Stayton Official Zoning Map to Reduce the Number of Nonconforming Single Family Dwellings

ISSUE

The issue before the City Council is a public hearing on proposed legislative amendments to the Official Zoning Map and the Comprehensive Plan Map to reduce the number of single family detached dwellings in the City that are nonconforming uses. Following the public hearing, the Council will be requested to consider Ordinance 1022 to amend the Comprehensive Plan Map and Official Zoning Map.

BACKGROUND INFORMATION

Nonconforming uses are defined as uses that are lawfully existing but do not conform to the list of permitted uses in the zone in which they are located. In general, nonconforming uses are uses that were in existence prior to the enactment of the regulations. The Code allows them to continue, but restricts their expansion or enlargement and specifies that should they be discontinued, they may not be resumed. In theory, whereas they are uses that are not permitted, we would want to see them live out their economic life and then disappear, to be replaced by conforming uses.

Single family detached dwellings are not permitted uses in the Commercial Retail, Commercial General, Light Industrial or Downtown Mixed Use zones. From the City's Geographic Information System, staff estimates that there are between 90 and 100 single family dwellings that were in existence prior to the enactment of the Land Use and Development Code and located in these zones.

The Council may recall that in March, Ordinance 1016 was enacted that changed the treatment of nonconforming single family dwelling under the Code, allowing them to be enlarged or added to. Following enactment of Ordinance 1016 the Planning Commission initiated the effort that has culminated in this evening's public hearing and Ordinance 1022 in order to reduce the number of nonconforming single family dwellings in the City.

When the City's Comprehensive Plan and Zoning Map was adopted in the mid-1970s there were several concentrations of residential uses that were zoned either commercial or industrial. When the current Comprehensive Plan Map and Zoning Map were adopted in 2013 the zoning of these areas was not changed. These "neighborhoods" have seen little or no conversion of property from residential use to commercial use.

At the March Planning Commission meeting, Commission members looked at these areas and voted to initiate the amendment process. Notice of the proposed amendments was provided to the Department of Land Conservation and Development on April 5. Written notice of the proposed amendments was provided to property owners, as required by ORS 227.185, on April 24. Notice of the Planning Commission's public hearing was published in the *Stayton Mail* on May 23.

The Planning Commission received one written comment prior to the public hearing and heard testimony from several individuals at the public hearing. As a result of the comments and testimony, the Planning Commission chose to modify their original proposal to eliminate some properties from the map amendments. The owners of those properties expressed a preference to keep the zoning as commercial.

Also following the May public hearing the Planning Commission requested that staff contact the owners of two businesses that would become nonconforming should the zoning change. The owner of one business expressed no preference and the other business owner expressed a preference to maintain the commercial zoning not just for his business but for the adjacent residences he also owns.

As a result, Planning Commission further modified the proposal to eliminate the property owned by this individual.

Notice of City Council's hearing was mailed to all of the property owners who received the original notification on July 2 and published in the *Stayton Mail* on July 11.

Ordinance 1022 contains a series of six maps that shows the Comprehensive Plan Map amendments and the Zoning Map amendments for each of the areas.

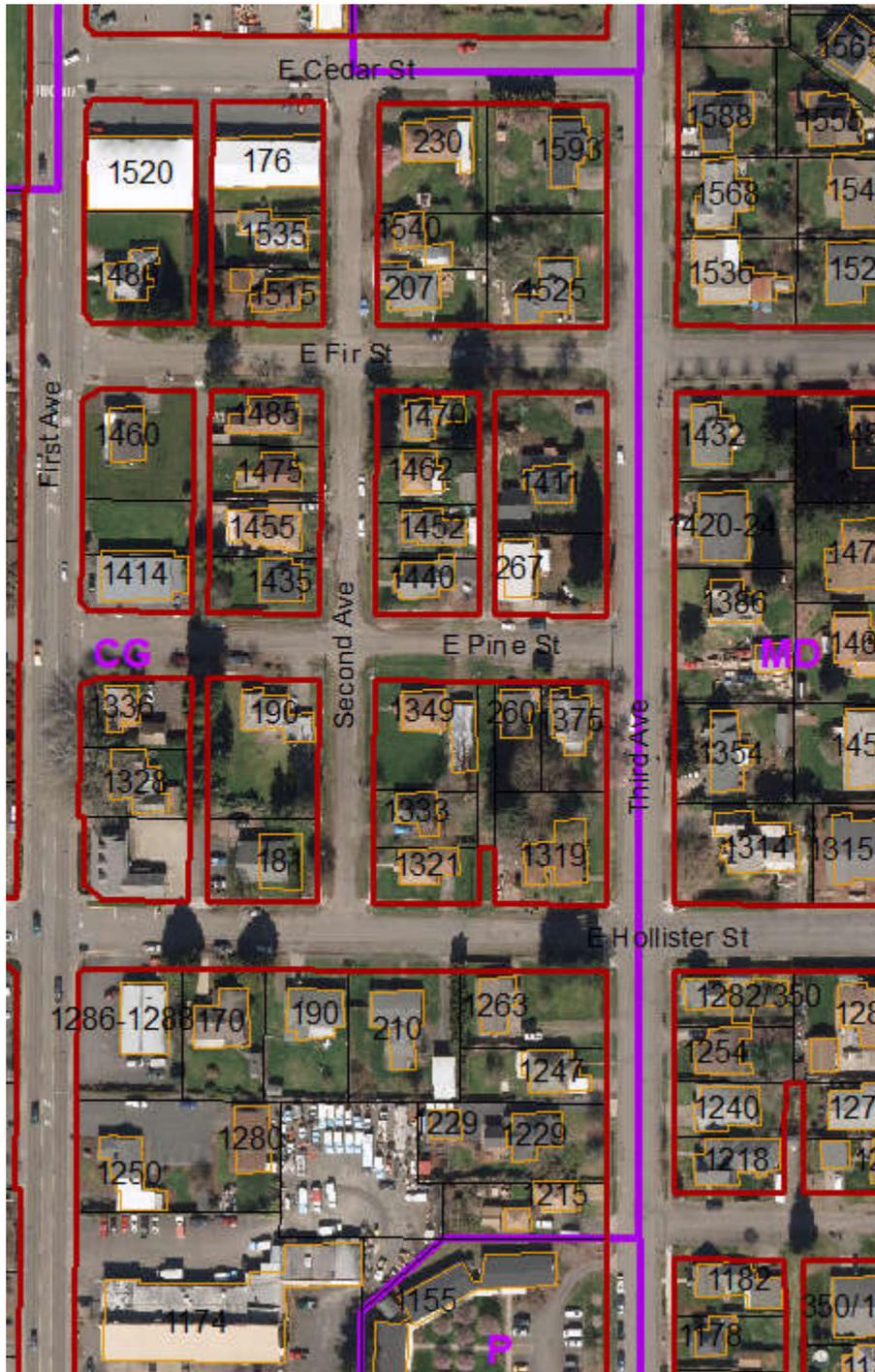
ANALYSIS

The Planning Commission has initiated a Comprehensive Plan Map and an Official Zone Map amendment for three areas within the city that are designated and zoned commercial or industrial and are exclusively in residential use. In this staff report "designation" refers to Comprehensive Plan Map designation and "zoned" refers to zoning by the Official Zoning Map.

The first area is along N Second Ave and N Third Ave between the Stayton Elementary School and E Cedar St. A 2014 aerial photo of the area showing the existing zoning is shown on the next page.

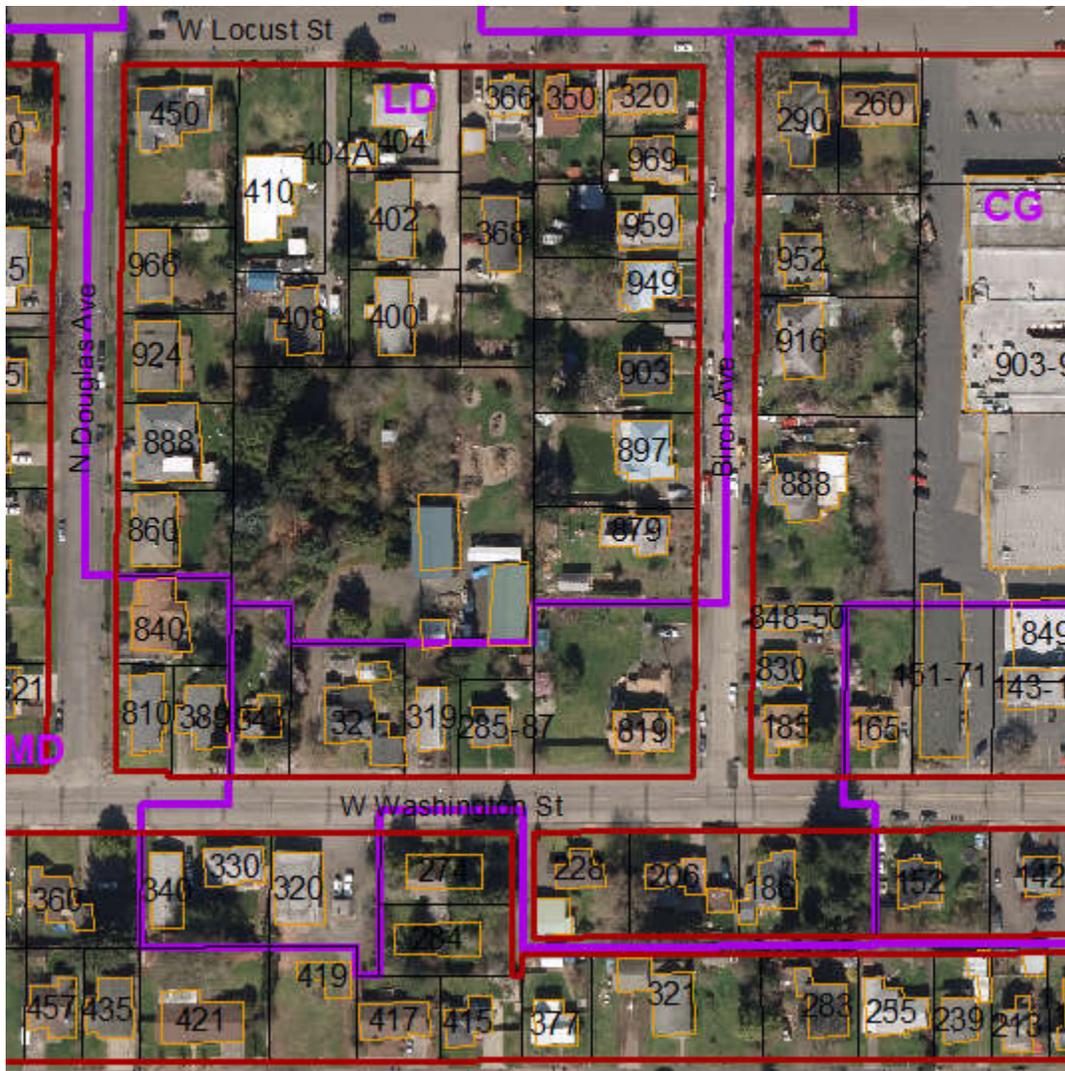
The seven block area includes 32 single family dwellings and just two businesses. There is also a storage building that is that is not used commercially. The Planning Commission's original proposal would change the designation of 8.03 acres from Commercial to Residential and change the zoning of the same area of land from Commercial General to Medium Density Residential. The new veterinary clinic at the northwest corner of N Second and E Hollister and

the pet supply warehouse at the southwest corner of N Second and E Cedar would remain in the Commercial General Zone.



The second area is along W Washington St and N Birch Ave. West of the Stayton Plaza shopping center and the Mary Artz bookkeeping office, all of W Washington is in residential use except for Stayton Dry Cleaning and Russ Strohmeyer’s photography studio. The west side of N Birch Ave is zoned Commercial General, but the entire block is in residential use. There are a total of

16 single family detached dwellings in this area. The Planning Commission’s original proposal would have changed all of N Birch into the Low Density Residential Zone, as the west side of the street currently is, the north side of W Washington into the LD zone, from the dentist office to the MD zone at N Douglas Ave, and the south side W Washington into in the MD zone from the Mary Artz bookkeeping office to the existing MD zoning. This proposal would have converted 3.67 acres from Commercial General to LD and 1.46 acres from CG to MD. In addition, there would have been the conversion of 0.23 acres from Commercial Retail to LD and 0.27 acres from CR to MD. While this amendment would have made 16 homes conforming uses, it should be noted that two existing businesses would have become nonconforming. A 2014 aerial photo of the area showing the existing zoning is below:



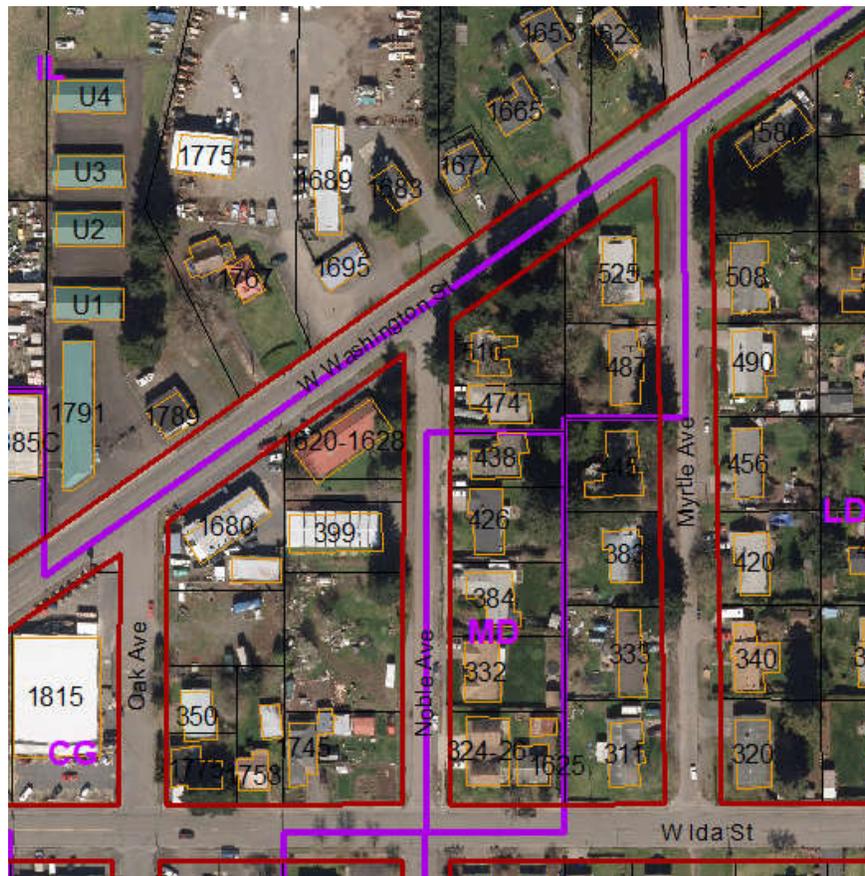
Following the testimony from the owners of the properties at the northeast corner of W Washington and N Birch, opposing the change the Planning Commission eliminated these two properties from the proposed amendment, keeping them in the Commercial designation and zoned Commercial Retail and Commercial General respectively. Following the public hearing, the Commission requested that staff specifically contact the owners of the properties with the two existing businesses to be impacted by the proposed amendments. The owner of the photography studio on the north side of W Washington also owns three tax parcels in

residential use. The owner preferred that all four parcels remain in the Commercial General Zone. There was no comment from the owner of the dry cleaning establishment on the south side of W Washington St.

The Planning Commission further revised the proposed amendment to eliminate all properties on the north side of W Washington St from the change, and to maintain the current Comprehensive Plan Map designation and zoning for these properties.

As revised, the proposal for this area will convert four tax parcels on the east side of N Birch Ave from Commercial General to Low Density Residential, with a combined area of 1.23 acres; on 0.27 acre parcel from Commercial Retail to Medium Density Residential; and 5 parcels with a combined area of 1.12 acres from Commercial General to MD.

The third area is along W Washington St and N Noble Ave. On the north side of W Washington St, south of the Salem Ditch, there are seven single family homes on five tax parcels, zoned Light Industrial. These parcels range in size from 6,000 square feet to 2 acres, though two of the parcels extend on both sides of the Salem Ditch. On the south side of W Washington, between Myrtle and Noble, there are four single family dwellings in the CG zone. The proposed amendment is to place the properties on the north side of W Washington, the two properties on the west side of N Myrtle, and the two properties on the east side of N Noble in the LD zone and the properties on the west side of N Noble and east side of N Oak Ave be placed in the MD zone. This proposal would convert 2.44 acres from Light Industrial to LD and 1.40 acres from CG to LD. In addition, there would be the conversion of 1.86 acres from CG to MD. A 2014 aerial photo of the area showing the existing zoning is below:



Following the testimony from the owners of the properties on the north side of W Washington St, the Planning Commission eliminated these six parcels from the amendment and maintained the Industrial designation and Light Industrial zoning for the north side of W Washington St.

Therefore, the revised proposal is to change only the designation and zoning along Oak, Noble and Myrtle Avenues, between W Ida St and W Washington St. The revised proposal is to convert four tax parcels with a combined area of 0.75 acres from CG to LD. In addition, there would be the conversion of six tax parcels with a combined area of 1.38 acres from CG to MD.

Approval Criteria

As a legislative amendment, the criterion for approval of the comprehensive plan map amendment is found in Section 17.12.170.6.a: "The amendment is consistent with the other goals and policies of the Comprehensive Plan, including any relevant area plans, and the statewide planning goals."

There are no area plans that address any of the three areas proposed for comprehensive plan map amendment. I have scanned the goals and policies in the Comprehensive Plan relative to housing, economic development and land use and found none that provide direction relevant to the proposal. The statewide planning goals that are relevant are Goals 1, 9, 10

Goal 1 promotes citizen involvement. Public notice of the hearing was provided by publication in the Stayton Mail and by mailing to all of the affected property owners.

Goal 9 relates to providing adequate opportunities for a variety of economic activities. The proposed amendments would reduce the amount of land within the City designated for commercial and industrial uses. However, all of the affected land has been historically, and is currently, used for residential purposes. It has been designated/zoned for commercial and industrial use for forty years and the use remains residential. Staff would conclude that these reductions in the amount of land designated and zoned for commercial and industrial uses will not impact economic opportunity within the City, as it is unlikely the residential uses or development would be converted to commercial or industrial uses.

Goal 10 is to provide for the housing needs of citizens of the state. The proposed amendments do not impact the amount of buildable land in the City. All of the land proposed for a change in designation and zoning is developed and has no opportunity for additional development of housing, though duplexes are permitted uses in the MD zone.

In addition to the Statewide Planning Goals, OAR 660-012, the Transportation Planning Rule, impacts our decision making process. OAR 660-012-0060(1) requires a finding whether an amendment to an acknowledged comprehensive plan would significantly affect an existing or planned transportation facility. In the present case, the potential traffic generation from the proposed designation/zoning would be less than the potential traffic generation from the current designation/zoning.

As a legislative amendment, the criterion for approval of the official zoning map amendment is found in Section 17.12.180.6.a: "The amendment is consistent with the other goals and policies of the Comprehensive Plan, including any relevant area plans."

There are no area plans that address any of the three areas proposed for comprehensive plan map amendment. I have scanned the goals and policies in the Comprehensive Plan relative to

housing, economic development and land use and found none that provide direction relevant to the proposal.

RECOMMENDATION

The Planning Commission has recommended adoption of the amendments. Staff recommends adoption of Ordinance 1022 as presented.

OPTIONS AND MOTIONS

The City Council is presented with the following options.

1. Approve the first consideration of Ordinance 1022

Move to approve Ordinance No 1022 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1022 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance No. 1016 will be brought before the Council for a second consideration at the August 6, 2018 meeting.

2. Approve the Ordinance with modifications

Move to approve Ordinance No. 1022 with the following changes ... and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1022 will be brought before the Council for a second consideration at its August 6, 2018 meeting.

3. Retain the Maps unchanged

No motion is necessary.