

# Notice of Public Meeting - City Council Special Meeting

## AGENDA

### CITY OF FALLS CITY, OREGON

Meeting Location: 320 N Main Street, Falls City, Oregon 97344

Thursday July 20, 2017 6:00 p.m.

Posted on July 12, 2017

#### 1.) Call to Order

A) Roll Call: Terry Ungricht, Mayor \_\_\_\_\_ Dennis Sickles \_\_\_\_\_ Lori Jean Sickles \_\_\_\_\_ Jennifer Drill \_\_\_\_\_  
Tony Meier \_\_\_\_\_ Charlie Flynn \_\_\_\_\_ Clifford Lauder \_\_\_\_\_

#### 2.) Pledge of Allegiance

#### 3.) Motion to Adopt the Entire Agenda

4.) **Public Hearing:** Zone Change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error (ZC-17-01) 85 Boundary Street, 212 N. Main Street, 216 N. Main Street

5.) **Consider adoption of the staff report for ZC 17-01 and authorize Mayor Ungricht to sign the final decision**

6.) **Public Hearing:** Comprehensive Plan Map Amendment (CPMA) to change designation from Public Assembly/Institutional to Residential on portion of lot to remove split zone and Zone Change (ZC) from Public Assembly/Institutional to Residential on Portion of Lot to remove split Zone. No change of use (CPMA/ZC 17-02) 223 S. Main Street

7.) **Consider adoption of the staff report for CPMA/ZC 17-02 and authorize Mayor Ungricht to sign the final decision**

8.) **Public Hearing:** Comprehensive Plan Map Amendments (CPMA) and Zone Change (ZC) from Residential (R) to Public Open Space (P) for the expansion of Michael Harding Park (CPMA/ZC 17-01)

9.) **Consider adoption of the staff report for CPMA/ZC 17-01**

10.) **Public Hearing:** Legislative Amendments to the Development Code (LA 17-01) Amend the Development Code to clarify the process to consolidate platted lots, replace section 2.210 for processing of Historic Resources and general housekeeping amendments.

11.) **Consider adoption of the staff report for LA-01 and authorize Mayor Ungricht to sign the final decision**

12.) **First Reading of Ordinance 545-2017 An Ordinance Amending the City of Falls City Zoning Map, related to Application File No. ZC 17-01**

13.) **First Reading of Ordinance 546-2017 An Ordinance Amending the City of Falls City Zoning and Comprehensive Plan Maps, related to Application File No. CPMA/ZC 17-02**

14.) **First Reading of Ordinance 547-2017 An Ordinance amending the City of Falls City Zoning and Comprehensive Plan Maps, related to Application File No. CPMA/ZC 17-01**

15.) **First Reading of Ordinance 548-2017 An Ordinance adoption a legislative text amendment to the Falls City Zoning and Development Ordinance Section 3.201.01 B, 1.202.02, 3.208, 3.102, 3.103, 3.105, 3.106, and replacing section 2.210 in its entirety**

#### 16.) Adjourn

# City Council Special Meeting

AGENDA with page numbers noted

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Tony Meier \_\_\_\_ Charlie Flynn \_\_\_\_ Clifford Lauder \_\_\_\_

## 2.) Pledge of Allegiance

## 3.) Motion to Adopt the Entire Agenda

Public Hearings Script..... Page 1-9  
Intro..... Page 1-2  
Motion – City Council to serve as Planning Commission..... Page 1  
Conflicts of interest/Ex-arte Contacts/Bias..... Page 2

## 4.) Public Hearing: Zone Change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error (ZC-17-01) 85 Boundary Street, 212 N. Main Street, 216 N. Main Street

Follow along Public Hearing script for ZC 17-01..... Mid Page 2-3  
Follow along Staff Report for ZC 17-01..... Pages 13 - 34

## 5.) Consider adoption of the staff report for ZC 17-01 and authorize Mayor Ungricht to sign the final decision

See motions on Public Hearing Script..... Bottom of Page 3

## 6.) Public Hearing: Comprehensive Plan Map Amendment (CPMA) to change designation from Public Assembly/Institutional to Residential on portion of lot to remove split zone and Zone Change (ZC) from Public Assembly/Institutional to Residential on Portion of Lot to remove split Zone. No change of use (CPMA/ZC 17-02) 223 S. Main Street

Follow along Public Hearing script for CPMA/ZC 17-02..... Top of page 4-5  
Follow along Staff Report for CPMA/ZC 17-02..... Pages 38 - 51

## 7.) Consider adoption of the staff report for CPMA/ZC 17-02 and authorize Mayor Ungricht to sign the final decision

See motions on Public Hearing Script..... Top of page 5

## 8.) Public Hearing: Comprehensive Plan Map Amendments (CPMA) and Zone Change (ZC) from Residential (R) to Public Open Space (P) for the expansion of Michael Harding Park (CPMA/ZC 17-01)

Follow along Public Hearing script for CPMA/ZC 17-01..... Top of page 5-6  
Follow along Staff Report for CPMA/ZC 17-01..... Pages 55 - 91

## 9.) Consider adoption of the staff report for CPMA/ZC 17-01

See motions on Public Hearing Script..... Bottom of page 6 -7

See next page

- 10.) Public Hearing:** Legislative Amendments to the Development Code (LA 17-01) Amend the Development Code to clarify the process to consolidate platted lots, replace section 2.210 for processing of Historic Resources and general housekeeping amendments.

Follow along Public Hearing script Legislative Amendment Intro.....Page 7 – Mayor to read  
Follow along Public Hearing script LA 17-01.....Mid Page 7 - 8  
Follow along Staff Report for CPMA/ZC 17-01.....Page 95 - 130

- 11.) Consider adoption of the staff report for LA-01 and authorize Mayor Ungricht to sign the final decision**

See motions on Public Hearing Script.....Bottom of page 8

- 12.) First Reading of Ordinance 545-2017 An Ordinance Amending the City of Falls City Zoning Map, related to Application File No. ZC 17-01.....Page 10-34**

- 13.) First Reading of Ordinance 546-2017 An Ordinance Amending the City of Falls City Zoning and Comprehensive Plan Maps, related to Application File No. CPMA/ZC 17-02.....Page 35-51**

- 14.) First Reading of Ordinance 547-2017 An Ordinance amending the City of Falls City Zoning and Comprehensive Plan Maps, related to Application File No. CPMA/ZC 17-01.....Page 52-91**

- 15.) First Reading of Ordinance 548-2017 An Ordinance adoption a legislative text amendment to the Falls City Zoning and Development Ordinance Section 3.201.01 B, 1.202.02, 3.208, 3.102, 3.103, 3.105, 3.106, and replacing section 2.210 in its entirety.....Page 92 -130**

- 16.) Adjourn**

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

Now is the time set for public hearings to consider Three (3) land use applications and one (1) Legislative Amendment to the Falls City Zoning and Development Code.

The first (1<sup>st</sup>) application ZC-01 is a request for a Zone Change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error at 85 Boundary Street, 212 N. Main Street, and 216 N. Main St.

The second (2<sup>nd</sup>) application CPMA/ZC 17-02 is a request for a Comprehensive Plan Map Amendment (CPMA) to change designation from Public Assembly/Institutional (PAI) to Residential (R) on portion of lot to remove split zone and Zone Change (ZC) from Public Assembly/Institutional to Residential on Portion of Lot to remove split Zone with no change of use for 223 S. Main Street.

The third (3<sup>rd</sup>) application CPMA/ZC 17-01 is a request for a Comprehensive Plan Map Amendments (CPMA) and Zone Change (ZC) from Residential (R) to Public Open Space (P) for the expansion of Michael Harding Park.

Lastly, LA 17-01 is a request for Legislative Amendments to the Falls City Zoning and Development Ordinance to clarify the process to consolidate platted lots, replace section 2.210 for Historic Resources and general housekeeping amendments. A Legislative public hearing is required when considering amendments to the zoning ordinance because this is a Policy Decision (a new law).

The Planning Commission is not able to act because of a lack of a quorum. Therefore, the Council must act as the Planning Commission for the three (3) land use applications. Is there a motion for the Council to act in place of the Planning Commission?

***MOTION: I move that the City Council of the City of Falls City act in place of the Planning Commission.***

Now we will proceed with the three (3) Land Use Public Hearings. Each hearing will be conducted separately, and I will introduce the procedures for each hearing only once.

For the three (3) land use hearing I will introduce the applicable substantive criteria upon which each case will be decided. Our City Planner Renata Wakeley, Community Development Director, Mid-Willamette Valley Council of Governments will provide a staff report. When the staff report has been presented I will open the public hearing to public testimony. Members of the public who want to testify are asked to sign in, come up when called, and give their name and city and address for the record before they testify. We ask for your address so that we can notify you of the City's final decision. When public testimony has been concluded I will close the public hearing and open it up for council discussion and deliberation.

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

After the Council has deliberated, we will need a motion to approve, modify or deny each application separately.

Are there any questions among the Council about the process?

Oregon land use law requires several items be read into the record at the beginning of each public hearing. The following provision will be applicable to all three (3) land use public hearings tonight.

Conflicts of Interest/Ex-Parte Contacts/Bias

The Council is required to disclose any conflicts of interest and ex-parte contacts that we have with the Land Use Applications or applicants — this is whether we have any financial or other personal interest in a proposals and whether we have spoken with anybody about a proposals outside of this hearing. Also, Councilors may only participate if they can do so without un-due bias either for or against either application.

Do any Councilors wish to make disclosures? Please identify the land use application for each disclosure.

Are there any challenges from the audience as to conflicts of interest, ex-parte contacts, or bias related to any member of the Council?

Required Statements ZC 17-01

The applicable substantive criteria upon which ZC 17-01 will be decided are found in Section 2.102, 2.105, 3.105 and 3.207 of the Falls City Zoning and Development Ordinance.

Your testimony, arguments, and evidence must be directed toward these criteria or other criteria in the comprehensive plan or development code that you believe apply. (ORS 197.763(5)(b).)

Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker or other people an opportunity to respond may preclude appeal of a decision on this application based on that issue. (ORS 197.763(5)(c).)

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court. (ORS 197.796(3)(b).)

Public Hearings

-I now open the Public Hearing for application # ZC 17-01 at \_\_\_\_\_ PM.

I call on our City Planner Renata Wakeley to present the staff report for the first (1<sup>st</sup>) application.

*RENATA will review Staff report.*

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

All persons speaking before the City Council must state their name and address for the record.

I invite the Applicant to present their case.

I invite those in support of the application to speak

I invite those opposed to the application to speak

I invite those who are neither for nor against the application to speak.

I invite public agencies to comment.

I invite the Applicant to present any rebuttal to the testimony presented.

I close the Public Hearing for application # ZC 17-01 at \_\_\_\_\_ PM.

**Mayor to read:** Is there a request to keep the record open?

**See page 9 if you have a request to keep the record open. (Hearing will be closed, but record will be left open for the submission of additional written evidence and testimony.)**

[If there is no request to keep the record open] Now it is time for Council deliberation and discussion.

**MOTION TO APPROVE:** *I move to approve the requested Zone Change, subject to the conditions of approval as set forth in the staff report, from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error for 85 Boundary Street, 212 N. Main Street, and 216 N. Main Street based upon the findings set forth in the staff report for application # ZC 17-01 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**OR MOTION TO APPROVE WITH MODIFICATIONS:** *I move to approve the requested Zone Change, subject to the conditions of approval as set forth in the staff report, as modified to reflect the changes made by the City Council, from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error for 85 Boundary Street, 212 N. Main Street, and 216 N. Main Street based upon the findings set forth in the staff report for application # ZC 17-01 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**OR MOTION TO DENY:** *I move that the ZC 17-01 Zone Change application from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error for 85 Boundary Street, 212 N. Main Street, and 216 N. Main be denied based on the following reasons:*

**(The Council member making motion to deny needs to state the reasons for denial)**

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

Required Statements for CPMA/ZC 17-02

The applicable substantive criteria upon which CPMA/ZC 17-02 will be decided are found in Section 2.101, 2.105, 3.105, 3.206 and 3.207 of the Falls City Zoning and Development Ordinance.

Your testimony, arguments, and evidence must be directed toward these criteria or other criteria in the comprehensive plan or development code that you believe apply. (ORS 197.763(5)(b).)

Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker or other people an opportunity to respond may preclude appeal of a decision on this application based on that issue. (ORS 197.763(5)(c).)

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court. (ORS 197.796(3)(b).)

I now open the Public Hearing for application # CPMA/ZC 17-02 at \_\_\_\_\_ PM.

I call on our City Planner Renata Wakeley to present the staff report for the second (2<sup>nd</sup>) application.

*RENATA will review Staff report.*

All persons speaking before the City Council must state their name and address for the record.

I invite the Applicant to present their case.

I invite those in support of the application to speak

I invite those opposed to the application to speak

I invite those who are neither for nor against the application to speak.

I invite public agencies to comment.

I invite the Applicant to present any rebuttal to the testimony presented.

I close the Public Hearing for application # CPMA/ZC 17-02 at \_\_\_\_\_ PM.

**Mayor to read:** Is there a request to keep the record open?

**See page 9 if you have a request to keep the record open. (Hearing will be closed, but record will be left open for the submission of additional written evidence and testimony.)**

[If there is no request to keep the record open] Now it is time for Council deliberation and discussion.

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

**MOTION TO APPROVE:** *I move to approve the Comprehensive Plan Map Amendment (CPMA) to Change designation from Public/Assembly/Institutional(PAI) to Residential (R) on a portion of lot to remove split zone, and Zone Change (ZC) from Public Assemble/Institutional to Residential on portion of lot to remove spit zone for 223 S. Main Street based upon the findings set forth in the staff report for application #CPMA/ZC 17-02 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**OR MOTION TO APPROVE WITH MODIFICATIONS:** *I move to approve the requested Comprehensive Plan Map Amendment (CPMA) and Zone Change (ZC), subject to the conditions of approval as set forth in the staff report, as modified to reflect the changes made by the City Council, to Change designation from Public Assembly/Institutional(PAI) to Residential (R) on a portion of lot to remove split zone and Zone Change (ZC) from Public Assemble/Institutional to Residential on portion of lot to remove spit zone for 223 S. Main Street based upon the findings set forth in the staff report for application # ZC 17-01 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**Or MOTION TO DENY:** *I move that the Comprehensive Plan Map Amendment (CPMA) to Change designation from Public Assembly/Institutional (PAI) to Residential (R) on a portion of lot to remove split zone and Zone Change (ZC) from Public Assemble/Institutional to Residential on portion of lot to remove spit zone for 223 S. Main Street be denied based on the following reasons:*

*(The Council member making motion to deny needs to state the reasons for denial)*

Required Statements for CPMA/ZC 17-01

The applicable substantive criteria upon which CPMA/ZC 17-01 will be decided are found in Section 2.101, 2.104, 3.105, 3.206 and 3.207 of the Falls City Zoning and Development Ordinance.

Your testimony, arguments, and evidence must be directed toward these criteria or other criteria in the comprehensive plan or development code that you believe apply. (ORS 197.763(5)(b).)

Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker or other people an opportunity to respond may preclude appeal of a decision on this application based on that issue. (ORS 197.763(5)(c).)

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court. (ORS 197.796(3)(b).)

I now open the Public Hearing for application # CPMA/ZC 17-01 at \_\_\_\_\_ PM.

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

I call on our City Planner Renata Wakeley to present the staff report for the second (3<sup>rd</sup>) application.

*RENATA will review Staff report.*

All persons speaking before the City Council must state their name and address for the record.

I invite the Applicant to present their case.

I invite those in support of the application to speak

I invite those opposed to the application to speak

I invite those who are neither for nor against the application to speak.

I invite public agencies to comment.

I invite the Applicant to present any rebuttal to the testimony presented.

I close the Public Hearing for application # CPMA/ZC 17-01 at \_\_\_\_\_ PM.

**Mayor to read:** Is there a request to keep the record open?

**See page 9 if you have a request to keep the record open. (Hearing will be closed, but record will be left open for the submission of additional written evidence and testimony.)**

[If there is no request to keep the record open] Now it is time for Council deliberation and discussion.

**MOTION TO APPROVE:** *I move to approve the Comprehensive Plan Map Amendment (CPMA) to Change designation from Residential (R) to Public Open Space (P) on Map and Tax Lot 8621BB03600 and Zone Change (ZC) from Residential (R) to Public Open Space (P) for Map and Tax Lot 8621BB03600 based upon the findings set forth in the staff report for application #CPMA/ZC 17-01 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**OR MOTION TO APPROVE WITH MODIFICATIONS:** *I move to approve the requested Comprehensive Plan Map Amendment (CPMA) and Zone Change (ZC), subject to the conditions of approval as set forth in the staff report, as modified to reflect the changes made by the City Council, to Change designation from Residential (R) to Public Open Space (P) on Map and Tax Lot 8621BB03600 and Zone Change (ZC) from Residential to Public Open Space (P) for Map and Tax Lot 8621BB03600 based upon the findings set forth in the staff report for application # ZC 17-01 and to authorize the Mayor to sign a final decision approving the application and incorporating the findings from the staff report.*

**Or MOTION TO DENY:** *I move that the Comprehensive Plan Map Amendment (CPMA) to Change designation from Residential (R) to Public Open Space (P) on Map and Tax Lot*

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

**8621BB03600 and Zone Change (ZC) from Residential to Public Open Space for Map and Tax Lot 8621BB03600 be denied based on the following reasons:**

**(The Council member making motion to deny needs to state the reasons for denial)**

Required Statements for LA-01

City Council will now consider a Legislative Amendment to the Falls City Zoning and Development Ordinance. A Legislative public hearing is required when considering amendments to the zoning ordinance because the decision makers are considering making new law that will have widespread effects.

There can be pre-hearing contact between citizens and the decision makers on legislative matters. That is, "ex parte contact" is not a concern. Decision makers are seeking all the input they can get on the issues in order to make a reasonable decision on the proposed amendments. Declaration of an actual or potential conflict of interest in this matter is required.

This hearing will be held in accordance with the land use procedures required by the City and the State of Oregon.

A legislative amendment to the Development Ordinance is a Type IV process with the decision made by the City Council after a public hearing (3.102, D)

The Development Code, Section 3.106, sets forth the review procedure and approval criteria for a legislative amendment to the Development Code.

Before we begin, does any Commissioner wish to declare an actual or a potential conflict of interest in this matter?

I now open the Public Hearing for **Legislative Amendment** to the Falls City Zoning and Development Ordinance # LA 17-01 at \_\_\_\_\_ PM.

I call on our City Planner Renata Wakeley to present the staff report for the Legislative Amendment.

*RENATA will review Staff report.*

All persons speaking before the City Council must state their name and address for the record.

I invite the Applicant to present their case.

I invite those in support of the application to speak

I invite those opposed to the application to speak

I invite those who are neither for nor against the application to speak.

I invite public agencies to comment.

I invite the Applicant to present any rebuttal to the testimony presented.

MAYOR'S SCRIPT FOR Quasi-Judicial Land Use and Legislative Amendment Public Hearings

I close the Public Hearing for the Legislative Amendment LA 17-01 at \_\_\_\_\_ PM.

**Mayor to read:** Is there a request to keep the record open?

**See page 9 if you have a request to keep the record open. (Hearing will be closed, but record will be left open for the submission of additional written evidence and testimony.)**

[If there is no request to keep the record open] Now it is time for Council deliberation and discussion.

**MOTION TO APPROVE:** *I move to approve Legislative amendments to the Falls City Zoning and Development Ordinance (LA 17-01) to clarify the process to consolidate platted lots, replace section 2.210 for processing of Historic Resources and general housekeeping amendments based upon the findings set forth in the staff report for application #LA 17-01.*

**MOTION TO APPROVE WITH CHANGES:** *I move to approve Legislative amendments to the Falls City Zoning and Development Ordinance (LA 17-01), as modified to reflect the changes made by the city Council, to clarify the process to consolidate platted lots, replace section 2.210 for processing of Historic Resources and general housekeeping amendments based upon the findings set forth in the staff report for application #LA 17-01.*

**Or MOTION TO DENY:** *I move that the LA 17-01 to clarify the process to consolidate platted lots, replace section 2.210 for processing of Historic Resources and general housekeeping amendments be denied based on the following reasons:*

(The Council member making motion to deny needs to state the reasons for denial)

**See the following if you have a request to keep the record open. (Hearing will be closed, but record will be left open for the submission of additional written evidence and testimony.)**

**[READ THE FOLLOWING ONLY IF YOU HAVE A REQUEST TO LEAVE THE RECORD OPEN]**

**Rules Regarding Leaving the Record Open (ORS 197.763(6).)**

Before the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The City shall then keep the record open at least seven (7) days from the date of the initial evidentiary hearing (set the date and time for the closing of the open record period that is at least 7 days in the future). Persons may present and rebut new evidence, arguments or testimony by submitting materials to City Hall. Materials must be received at City Hall before the expiration of the open record period. If new written evidence is submitted, any person may request, prior to the conclusion of the open record period, that the record be left open for an additional seven (7) days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

At the conclusion of the open record period, unless waived, the applicant has 7 days after the close of the record to provide final legal argument. (ORS 197.763(6)(e).) Once the open record period is closed, the Council will deliberate and make a decision on the application.

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**AGENDA REPORT**

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**TO:** CITY COUNCIL  
**FROM:** DOMENICA PROTHEROE, THROUGH MAYOR TERRY UNGRICHT  
**SUBJECT:** ORDINANCE NO. 545-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING MAP, RELATED TO APPLICATION FILE NO. ZC 17-01.  
**DATE:** 07/12/2017

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**SUMMARY**

Consider motion for first reading of Ordinance

**PROCESS FOR ADOPTION**

7/12/2017 – Motion to read Ordinance for first time by title only

8/10/2017 – Motion to read Ordinance for a second time by title only

Motion to Adopt Ordinance

9/10/2017 – Motion will take affect if adopted

**BACKGROUND** See Staff Report for ZC 17-01

**PREVIOUS COUNCIL ACTION**

Council has not taken prior action on this zone change

**ALTERNATIVES/FINANCIAL IMPLICATIONS**

N/A

**STAFF RECOMMENDATION**

Staff recommends the City Council read Ordinance 545-2017 by title only

**EXHIBIT**

ORDINANCE NO. 545-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING MAP, RELATED TO APPLICATION FILE NO. ZC 17-01.

**PROPOSED MOTION**

I move the City Council of the City of Falls City read the Ordinance 545-2017 for the **first time** by title only. "ORDINANCE NO. 545-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING MAP, RELATED TO APPLICATION FILE NO. ZC 17-01."

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**ORDINANCE NO. 545-2017**

**AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING MAP, RELATED TO APPLICATION FILE NO. ZC 17-01.**

**FINDINGS:** On May 24, 2017, the City of Falls City submitted an application for zone map changes (File No. ZC 17-01) for 8621BA03500 85 Boundary Street, 8621BA03600 212 N. Main Street, and 8621BA03700 216 N. Main Street, Falls City, Oregon 97344 to change the zone from Public Assembly/Institutional (PAI) to Commercial/Residential (CR); and

**FINDINGS:** The City recognized a zoning map error that incorrectly identified the three properties as Public Assembly/Institutional (PAI) however the Comprehensive Plan Map correctly identified the subject properties as Commercial Residential (CR); and

**FINDINGS:** A correction to the Zoning Map was needed because homes/and or businesses are not a permitted use in the PAI Zone and there are no conditional uses. Furthermore, this error resulted in the classification of existing residential structures as nonconforming and thereby placed an unfair burden on the owners of the subject properties; and

**FINDINGS:** A correction to the zoning map will allow Commercial/Residential (CR) permitted and conditional uses compliant with the Falls City Zoning and Development Ordinance; and

**FINDINGS:** The subject properties are located within the City of Falls City city limits; and

**FINDINGS:** The owners of the subject properties signed the Land Use Application for the zone change; and

**FINDINGS:** Proper notice of the a public hearing was given to the public pursuant to applicable state statutes; and

**FINDINGS:** The Falls City City Council, serving as the Planning Commission, conducted a public hearing on July 20, 2017 at which time interested parties were given full opportunity to be present and heard on the proposed zone change map amendment; and

**FINDINGS:** At the close of the public hearing, the City Council voted to approve the request; and

**FINDINGS:** The City Council of the City of Falls City hereby adopts the findings of fact set forth in **Exhibit A**;

**NOW, THEREFORE, THE CITY OF FALLS CITY ORDAINS AS FOLLOWS:**

**SECTION 1.** The zoning for the subject properties is hereby changed from Public Assembly/Institutional (PAI) to Commercial/Residential (CR).

**SECTION 2.** Effective Date of Ordinances is September 10, 2017.

*P/1*



Exhibit A

**CITY OF FALLS CITY**

299 Mill Street  
Falls City, OR 97344  
503-787-3631

**STAFF REPORT**

**ZONE CHANGE (ZC 2017-01)**

**Staff Report: JULY 10, 2017**

City Council Hearing: JULY 20, 2017

**I. BACKGROUND**

FILE NUMBER: ZC 17-01

NATURE OF APPLICATION: Zone Change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) to correct zoning map error.

APPLICABLE CRITERIA Falls City Zoning and Development Ordinance, Sections 2.102, 2.105, 3.105, and 3.207

PROPERTY LOCATION: 1: 85 Boundary Street (Assessor's Tax Lot: 8621BA/03500)  
2: 212 N. Main Street (Assessor's Tax Lot: 8621BA03600)  
3: 216 N. Main Street (Assessor's Tax Lot: 8621BA03700)

APPLICANT **City of Falls City**

OWNERS: 1: Royal Hilliard  
2: Anthony Meier  
3: Kenneth and Darlene Beaty

ZONE DESIGNATION: Public Assembly/Institutional (PAI)

COMP. PLAN DESIGNATION: Commercial-Residential (CR)

CURRENT USE: 1: Vacant  
2: Residence and business (Iddell Dew Gardens)  
3: Residence

SIZE: Total: Approximately 0.68 acres

SURROUNDING ZONING: North: Commercial Residential  
South: Residential  
East: Commercial Residential  
West: Commercial Residential

EXHIBITS: A: Assessors Map  
B: Existing and Proposed Zoning  
C: LU Application

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## II. REQUEST

The Falls City Zoning Map incorrectly identifies the three parcels as Public Assembly/Institutional (PAI). Staff assumes that a clerical error resulted from incorrectly identifying the parcel where the Methodist Church is located at 242 N. Main Street (west of 216 N. Main Street). The Comprehensive Plan Map correctly identifies all three parcels as Commercial/Residential (CR).

A correction to the zoning map is needed because homes and/or business are not a permitted use in the PAI Zone. There are no conditional uses in the PAI zone. Furthermore, this error results in the classification of existing residential structures as nonconforming.

The clerical error places an unfair burden on land owners because more stringent land use processes would be required. A land owner would be required to apply for a nonconforming use permit and a building permit to alter or repair a structure. The owner of the vacant land would be required to apply for a Variance to Standards and a building permit if they wanted to develop a residence or a business. A Land Use Application for a Variance to Standards and a building permit would be required to replace the existing residential structures.

## III. PROCEDURE

A Zone Change is a Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

Because the City of Falls City does not currently have a Planning Commission, this application for a Zone Change will be heard and decided by the City Council.

## III. CRITERIA – ZONE CHANGE

Section 3.207(D): Criteria for Approval: Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

1. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use designation.

**Applicant Response:** The Comprehensive Plan Map correctly identifies all three parcels as Commercial/Residential and the City believes a clerical error occurred with the zone map.

**Findings:** Staff finds the proposed rezone is appropriate as it aligns with the current Comprehensive Plan designation for the subject properties. Staff finds this criterion is met.

2. Adequate public facilities, services and transportation networks are in place or are planned to be provided concurrently with the development of the property.

**Applicant Response:** Two of the subject properties are currently developed with residential structures. Public Works staff has confirmed adequate public facilities, services and transportation networks currently serve or are in place to serve the subject properties.

**Findings:** Staff finds adequate public facilities, services and transportation networks currently serve or are in place to serve the subject properties. Any new development, change of use, or alteration of

existing structures or subject properties shall be in compliance with the FCZDO, as included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

3. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

**Applicant Response:** Two of the subject properties are currently developed with residential structures. Public Works staff has confirmed adequate public facilities, services and transportation networks currently serve or are in place to serve the subject properties.

**Findings:** Staff finds the proposed rezone of the subject properties can be served by existing public facilities, services and transportation networks. Any new development, change of use, or alteration of existing structures or subject properties shall be in compliance with the FCZDO, as included as a recommended condition of approval.

4. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.

**Applicant Response:** Two of the subject properties are currently developed with residential structures. Public Works staff has confirmed adequate public facilities, services and transportation networks currently serve or are in place nearby to serve the subject properties.

**Findings:** Staff finds the proposed rezone of the subject properties can be served by existing public facilities, services and transportation networks. Any new development, change of use, or alteration of existing structures or subject properties shall be in compliance with the FCZDO, as included as a recommended condition of approval. A decision approving the proposed zone change is for land use purposes only. Due to septic, well and drainfield replacement areas, subject properties may not be able to support all activities permitted within the zone. To be sure subject properties can accommodate future proposed uses, interested parties must check with the City of Falls City and the Building Inspection Division.

5. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

**Applicant Response:** N/a.

**Findings:** Staff finds this criterion does not apply as the application is not a proposal to rezone from a current residential zone but rather to rezone the property to a residential zone, in compliance with the existing Comprehensive Plan Map. Staff finds this criterion does not apply.

6. The following additional criteria shall be used to review all non-residential changes:

- a. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five (5) years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.

**Applicant Response:** The proposed application is to bring the Zone map into compliance with the Comprehensive Plan map and existing/surrounding uses.

**Findings:** Staff finds the subject properties are more appropriately suited for the Commercial/Residential zone in compliance with existing uses and the existing Comprehensive Plan designation.

- b. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

**Applicant Response:** N/a.

**Findings:** Staff finds the proposed rezone aligns with the Comprehensive Plan Map designation and surrounding uses and zones which are Commercial/Residential to the north, east, and west and Residential to the south. Staff finds this criterion is met.

#### IV. CONCLUSIONS AND RECOMMENDED CONDITIONS OF APPROVAL

Staff finds the application meets the criteria for a Zone change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR) based upon the findings outline above and in compliance with FCZDO Section 3.207(D). Staff recommends approval of the requested Zone Change from Public Assembly/Institutional (PAI) to Commercial/Residential (CR), subject to the following conditions of approval:

1. Any new development, change of use, or alteration of existing structures or subject properties shall be in compliance with the FCZDO.
2. A decision approving the proposed zone change is for land use purposes only. Due to septic, well and drainfield replacement areas, subject properties may not be able to support all activities permitted within the zone. To be sure subject properties can accommodate future proposed uses, interested parties must check with the City of Falls City and the Building Inspection Division.

#### V. COUNCIL ACTION

The City Council may take one of the following actions:

- A. Make a motion to adopt the staff report and approve the requested Zone Change, subject to the conditions of approval set forth in the staff report.
- B. Make a motion to adopt the staff report and approve the requested Zone Change, subject to the conditions of approval set forth in the staff report, as modified to reflect the changes made by the City Council.

*Note: The Council member making the motion needs to state the reasons for the modifications and any revised conditions of approval.*

- C. Make a motion to continue the public hearing to a date and time certain and state the additional information that is needed to allow for a future decision.
- D. Make a motion to deny the requested Comprehensive Plan Map Amendment and Zone Change.

*Note: The Council member making the motion needs to state the reasons for the recommendation of denial.*

8.6.21BA

NE 1/4 NW 1/4 SEC. 21 T8S R6W WM  
POLK COUNTY

Scale 1" = 100'

IMPORTANT  
This Map for Assessment  
and Taxation Purposes  
ONLY

Cancelled Nos.

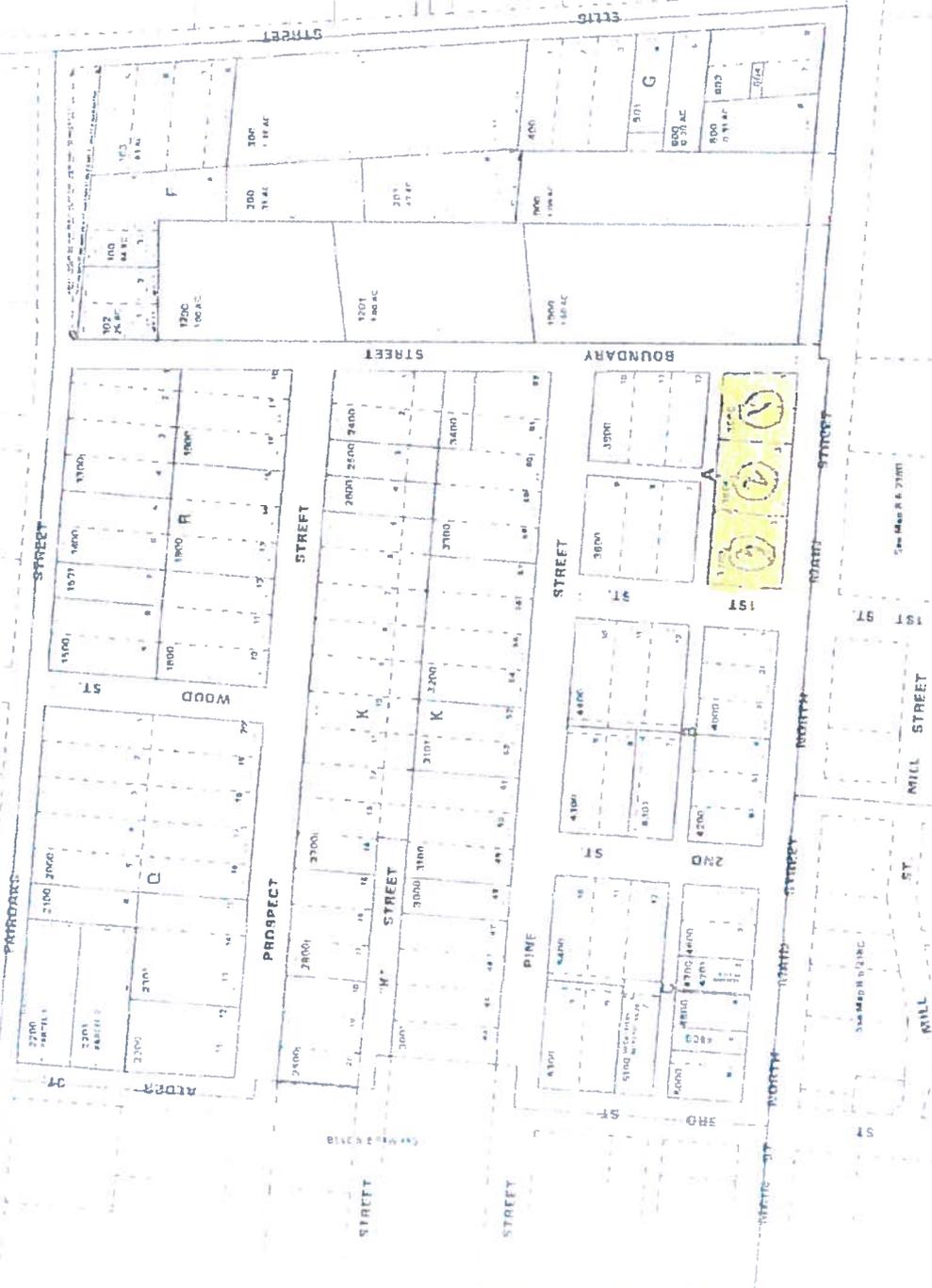
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- 1707
- 1808
- 1909
- 2000
- 2101
- 2202

87-23-24-25-26

8.6.21BA

EAST

See Map R & 2100



See Map R & 2100

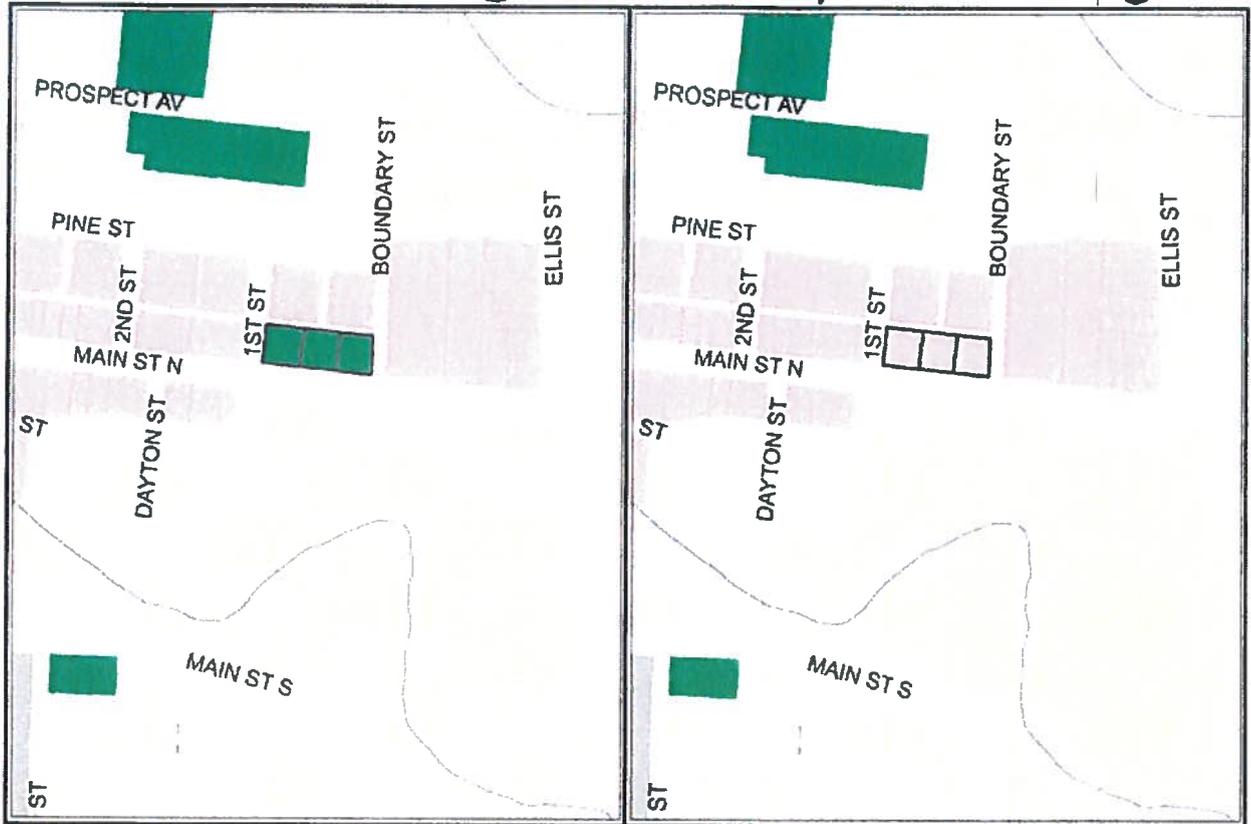
See Map R & 2100

08/19/16

Exhibit A p. 17

## Current Zoning

## Proposed Zoning



### Legend

-  Streams
-  Zone Change
-  City Limits
-  Taxlots

### Zoning

-  Commercial Industrial
-  Commercial Residential
-  Forestry
-  Public
-  Public Assembly/Institutional
-  Residential

P.18

Exhibit B

City of Falls City  
Land Use Application

File # \_\_\_\_\_  
Date Rec'd: \_\_\_\_\_  
Fee Paid: City Council waived fee  
Receipt No.: \_\_\_\_\_  
Rec'd By: Domenica Protheroe

Type I-A Action:

- Access Permit
- Home Occupation Permit
- Lot Line Adjustment
- Manufactured Home Placement Permit
- Sign Permit

Type I-B Action:

- Flood Plain Development Permit
- Site Design Review
- Temporary Hardship Dwelling
- Partitions

Type II Action:

- Code Interpretation
- Modification to Approval
- Partition Plat Modification

Type III Action:

- Comprehensive Plan Map Amendments involving 5 or fewer adjacent land owners **(Zoning Map Change)**
- Conditional Use Permit
- Manufactured Home Park
- Planned Unit Development
- Historic Buildings and Sites
- Subdivision
- Variance
- Non-Conforming Use

Type IV Action:

- Annexation
- Zone Change
- Comprehensive Plan Map Amendments involving more than five (5) adjacent land owners

Other

- Pre-Application Conference

Please submit completed application and fees to: City of Falls City, 299 Mill Street, Falls City OR 97344

Applicant(s): City of Falls City

Telephone: 503.787.3631

Address: 299 Mill Street, Falls City, Oregon 97344

Owner(s): (1) Royal Hilliard

Telephone: \_\_\_\_\_

Address: 85 Boundary St

Owner(s): (2) Anthony Meier

Telephone: \_\_\_\_\_

Address: 212 N Main Street / PO Box 223

Owner(s): (3) Kenneth and Darlene Beaty

Telephone: \_\_\_\_\_

Address: 216 N Main Street

Engineer/Surveyor: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

\*\*\*\*\*  
General Information

(1) Map Page and Tax Lot No.: 8.6.21BA03500 Zone: Public Assembly/Institutional

Location: Vacant Land corner of Boundary Street & N Main Street

(2) Map Page and Tax Lot No.: 8.6.21BA03600 Zone: Public Assembly/Institutional

Location: 212 N Main Street

(3) Map Page and Tax Lot No.: 8.6.21BA03700 Zone: Public Assembly/Institutional

Location: 216 N Main Street

(1) Legal Description: Lots 1 and 2, in Block A, Original Town of Falls City, in the City of Falls City, Polk County, Oregon

(2) Legal Description: Lots 3 and 4 of Block A of the Original Town of Falls City, in the City of Falls City, Polk County, Oregon

Save and except: Beginning at the northwest corner of Lot 4, Block A of the Original town of Falls City in Polk County, Oregon; and running thence south 4° 23' west along the west line of said lot 4, 33.28 feet to an iron rod; thence south 85° 37' east 3.00 feet to an iron rod; thence north 4° 23' east 33.28 feet to an iron rod on the north line of said lot 4; thence north 85° 37' west 3.00 feet to the place of beginning.

(3) Legal Description: Parcel 1: Lots 5 and 6, Block A of Original Town of Falls City, In County of Polk and the State of Oregon

Parcel 2: Commencing at the northwest corner of Lot 4, Block A of the Original town of Falls City in Polk County, Oregon; and running thence south 4° 23' west along the west line of said lot 4, 33.28 feet to an iron rod; thence south 85° 37' east 3.00 feet to an iron rod; thence north 4° 23' east 33.28 feet to an iron rod on the north line of said lot 4; thence north 85° 37' west 3.00 feet to the place of beginning.

Existing Zoning Public Assembly/Institutional. Comprehensive Plan Designation: Commercial/Residential

Current Use/Structures:

(1) Vacant land

(2) Residence and business (Iddell Dew Gardens)

(3) Residence

Proposed Use: Correct Zoning Map error. See attached narrative.

Topography: Flat

Last updated on 6/8/07.

P. 20  
Exhibit C2

Surrounding Uses: North: Commercial/Residential Zone  
South: Residential Zone  
East: Commercial/Residential Zone.  
West: Commercial/Residential Zone.

Acreeage of Site: (1) 0.2238292 acres; (2) 0.2272727 acres ; (3) 0.23184114 acres

Number/Size of New Lots or Parcels: No Change.

Natural Features/Hazards of the Subject Site: Flat

Public Utility Providers (gas, electric, water, sewer, telephone): (2) and (3) City Water, sewer, and Pacific Power; (1) no services

Easements: \_\_\_\_\_ Volume and Page Number \_\_\_\_\_

(As recorded in the office of the County Clerk)

Deed Restrictions: \_\_\_\_\_

---

SUBMITTAL REQUIREMENTS: Please see the Falls City Zoning and Development Code for a list of the submittal requirements for each type of land use application.

All land use applicants shall be charged the ACTUAL COST to the City of Falls City of rendering a decision on their land use application. Cost shall include but not be limited to: contract planning services, City of Falls City staff time, city attorney time, cost of supplies, printing, legal notices, stamps, and city engineer time spent on reviewing the application.

The applicant will be required to pay the amount set by the ordinance. When a final decision is rendered by either staff or City Council the city will send a final Invoice to the applicant. Building permits will not be issued until the land use fees are paid in full to the city.

In the event an applicant chooses to withdraw an application prior to a final decision being made, the cost as set forth by the ordinance or the actual cost, whichever is greater, must be paid in full.

I certify that I have read, understand, and agree to the charges outlined above:

\_\_\_\_\_  
Applicant(s) Signature

1/18/2017  
Date

\_\_\_\_\_  
Applicant(s) Signature

1/17/2017  
Date

.....  
We, the following:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

**Narrative for Land Use Application for Zoning Map Change**  
212 N Main Street, 216 N Main Street and vacant land located on the west corner of Boundary Street  
and N Main Street

**Zoning Change Application:**

The Falls City Zoning Map incorrectly identifies the three parcels as Public Assembly/Institutional (PAI). Staff assumes that a clerical error resulted from incorrectly identifying the parcel where the Methodist Church is located at 242 N. Main Street (west of 216 N. Main Street). The Comprehensive Plan Map correctly identifies all three parcels as Commercial/Residential (CR).

A correction to the zoning map is needed because homes and/or business are not a permitted use in the PAI Zone. There are no conditional uses in the PAI zone. Furthermore, this error results in the classification of existing residential structures as nonconforming.

The clerical error places an unfair burden on land owners because more stringent land use processes would be required. A land owner would be required to apply for a nonconforming use permit and a building permit to alter or repair a structure. The owner of the vacant land would be required to apply for a Variance to Standards and a building permit if they wanted to develop a residence or a business. A Land Use Application for a Variance to Standards and a building permit would be required to replace an existing residential structure.

Applicant(s): City of Falls City Telephone: 503.787.3631  
Proposed Use: Correct Zoning map error.

Address: 299 Mill Street, Falls City, Oregon 97344  
(1) Map Page and Tax Lot No.: 8.6.21BA03500 Zone: Public Assembly/Institutional

Location: Vacant Land corner of Boundary Street & N Main Street  
Owner(s): (1) Royal Hilliard Telephone: (503)871-8263  
Site Address: 85 Boundary St  
Mailing Address: 520 S. 4TH STREET, Independence, Oregon 97351

(1) Map Page and Tax Lot No.: 8.6.21BA03500 Zone: Public Assembly/Institutional  
Location: Vacant Land corner of Boundary Street & N Main Street  
Existing Zoning Public Assembly/Institutional. Comprehensive Plan Designation: Commercial/Residential

We, the following:

Name: Kari Hilliard (exact) Telephone: 503<sup>385 3458</sup>  
Address: 85 Boundary St Falls City Or 97344

Being the owner(s) of record or contract purchasers of the subject property respectfully petition the City of Falls City Planning Commission and/or Council for permission to (describe request you are making.)

The applicant(s) shall certify that:

- ◆ The applicant(s) have read the Land Use Application and understand the contents. The request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- ◆ If the application is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◆ All of the statements in this application and the statements in the prior plan, any attachments, and exhibits submitted with this application are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.

Dated this 4 day of March, 2017.

Signature of each owner of the subject property.

Print name after signature.

[Redacted Signature] Kari Hilliard

The property is entering probate

P.23

CS

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF POLK  
850 Main St Dallas Oregon 97338

In the Matter of:

Case No: 17PB03393

Royal LeVern Hilliard

Deceased

LETTERS TESTAMENTARY

The court certifies that:

The will of Royal LeVern Hilliard, deceased, has been proved.

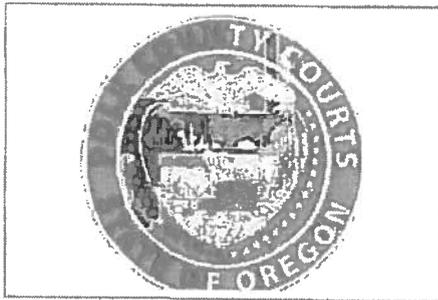
Kari Dawn Hilliard has been appointed Personal Representative of the will and estate of the decedent.

05/10/2017  
Date

Signed: 5/10/2017 11:29 AM



JSSI Taylor R. McGuire



Taylor McGuire  
Print Name

I certify that the Letters Testamentary in this case are still in full force and effect and have not been revoked or set aside. I certify that this is a true, complete, and accurate copy of the original Letters Testamentary filed in this case.

MAY 10 2017  
Date



[Redacted Signature]  
Court Clerk, (signature)

Taylor McGuire  
Print Name

Exhibit P.24  
Cl

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR POLK COUNTY  
PROBATE DEPARTMENT

|                                 |   |                                |
|---------------------------------|---|--------------------------------|
| In the Matter of the Estate of: | ) | Case No.                       |
|                                 | ) |                                |
| <b>Royal LeVern Hilliard,</b>   | ) | <b>LIMITED JUDGMENT</b>        |
|                                 | ) | <b>ADMITTING WILL TO</b>       |
| Deceased.                       | ) | <b>PROBATE AND APPOINTING</b>  |
|                                 | ) | <b>PERSONAL REPRESENTATIVE</b> |

Upon the Petition of Kari Dawn Hilliard for the probate of the Will of the above-named Decedent, the Court accepts the Petition.

IT IS THEREFORE ORDERED AND ADJUDGED:

1.

The Will dated December 23, 2012, is the Will of the above-named Decedent and the Will is hereby admitted to probate.

2.

Kari Dawn Hilliard is appointed as Personal Representative of the estate.

3.

Choose One:  The bond of the Personal Representative is waived; and

OR

The bond is set at \$\_\_\_\_\_ ; and

letters testamentary shall be issued forthwith to the Personal Representative in the manner provided by law.

Signed 5/2/2017 02:03 PM



Circuit Court Judge Monte S. Campbell

**Prepared by:**  
Denise B. Soto, OSB # 991147  
Soto Law Firm, P.C.  
939 SW Elm St. \* PO Box 1045  
Albany, OR 97321  
Phone: (541) 917-0111  
Fax: (541) 917-0111  
Email: denise@sotolaw.net  
Attorney for Personal Representative

**Personal Representative:**  
Kari Dawn Hilliard  
85 Boundary St.  
Falls City, OR 97344  
Phone: (503) 787-8079

P. 25

RECEIVED  
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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR POLK COUNTY  
PROBATE DEPARTMENT

In the Matter of the Estate of:                    )     Case No.  
  )       
          **ROYAL LEVERN HILLIARD,**                    )     **UTCR 5.100 CERTIFICATION**  
  )       
                          Deceased.                    )     

I, Denise B. Soto, attorney for Kari Dawn Hilliard, Petitioner and proposed Personal Representative herein, certify under penalty of perjury that the Limited Judgment Admitting Will to Probate and Appointing Personal Representative is ready for judicial signature as service is not required upon any party as this is an uncontested probate, UTCR 5.100(3).

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: April 26, 2017.  
  
Denise B. Soto, OSB# 991147

Prepared by:  
Denise B. Soto, OSB# 991147  
Email: denise@sotolaw.net  
Attorney for Personal Representative

Personal Representative:  
Kari Dawn Hilliard  
85 Boundary St.  
Falls City, OR 97344  
Phone: (503) 787-8079

p.26  
CB

Applicant: City of Falls City Telephone: 503.787.3631  
Proposed Use: Correct Zoning map error.

Applicant(s): City of Falls City Telephone: 503.787.3631

Address: 299 Mill Street, Falls City, Oregon 97344

Owner(s): (2) Anthony Meler Telephone: 503.787.4604  
Address: 212 N Main Street /PO Box 223, Falls City, Oregon 97344

(2) Map Page and Tax Lot No.: 8.6.21BA03600 Zone: Public Assembly/Institutional  
Location: 212 N Main Street

(2) Legal Description: Lots 3 and 4 of Block A of the Original Town of Falls City, in the City of Falls City, Polk County, Oregon  
Save and except: Beginning at the northwest corner of Lot 4, Block A of the Original town of Falls City in Polk County, Oregon; and running thence south 4° 23' west along the west line of said lot 4, 33.28 feet to an iron rod; thence south 85° 37' east 3.00 feet to an iron rod; thence north 4° 23' east 33.28 feet to an iron rod on the north line of said lot 4; thence north 85° 37' west 3.00 feet to the place of beginning.

Existing Zoning: Public Assembly/Institutional. Comprehensive Plan Designation: Commercial/Residential

We, the following:

Name: ANTHONY J. MELER Telephone: 503 971 9959

Address: 212 N. MAIN ST. FALLS CITY OR.

Being the owner(s) of record or contract purchasers of the subject property respectfully petition the City of Falls City Planning Commission and/or Council for permission to (describe request you are making.)

The applicant(s) shall certify that:

- ◆ The applicant(s) have read the Land Use Application and understand the contents.
- ◆ The request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- ◆ If the application is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◆ All of the statements in this application and the statements in the prior plan, any attachments, and exhibits submitted with this application are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.

Dated this 3/31/17 day of 31, 20 17.

Signature of each owner of the subject property.

Print name after signature.

[Redacted Signature] ANTHONY J. MELER

P.27

C9

Applicant(s): City of Falls City  
Proposed Use: Correct Zoning map error.

Telephone: 503.787.3631

Applicant(s): City of Falls City

Telephone: 503.787.3631

Address: 299 Mill Street, Falls City, Oregon 97344

Owner(s): (3) Kenneth and Darlene Beaty Telephone: (503)787-3643

Address: 216 N Main Street, Falls City, Oregon 97361

(3) Map Page and Tax Lot No.: 8.6.21BA03700 Zone: Public Assembly/Institutional

Location: 216 N Main Street

(3) Legal Description: Parcel 1: Lots 5 and 6, Block A of Original Town of Falls City, in County of Polk and the State of Oregon

Parcel 2: Commencing at the northwest corner of Lot 4, Block A of the Original town of Falls City in Polk County, Oregon; and running thence south 4° 23' west along the west line of said lot 4, 33.28 feet to an iron rod; thence south 85° 37' east 3.00 feet to an iron rod; thence north 4° 23' east 33.28 feet to an iron rod on the north line of said lot 4; thence north 85° 37' west 3.00 feet to the place of beginning.

We, the following:

Name: Kenneth and Darlene Beaty Telephone: 503.787.7022

Address: 216 N. Main Street, Falls City, Oregon 97344

Being the owner(s) of record or contract purchasers of the subject property respectfully petition the City of Falls City Planning Commission and/or Council for permission to (describe request you are making.)

The applicant(s) shall certify that:

- ◆ The applicant(s) have read the Land Use Application and understand the contents.
- ◆ The request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- ◆ If the application is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◆ All of the statements in this application and the statements in the prior plan, any attachments, and exhibits submitted with this application are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.

Dated this 5<sup>th</sup> day of April, 2012.

Signature of each owner of the subject property.

Print name after signature.

[Redacted Signature] Kenneth M Beaty  
[Redacted Signature] C. Darlene Beaty

P.28

C10

APR 11 2012

Account 294773 Map 08621BA03500 Code Area - Tax ID 5701-294773

1

## Polk County Real Property Assessment Overview

FOR ASSESSMENT YEAR 2016

ASSESSMENT QUESTIONS: (503) 623-8391 \*\*\* TAX QUESTIONS: (503) 623-9264

|                 |  |  |                            |
|-----------------|--|--|----------------------------|
| Mailing Name    | HILLIARD ROYAL L                       | Account Status                               | Active                     |
| Agent           |  | Legal Description                            | Multiple lots.             |
| In Care Of      |  | See the Legal Report for a full description. |                            |
| Mailing Address | 85 BOUNDARY ST<br>FALLS CITY, OR 97344 | Property Class                               | 120 Unit Info No Floorplan |
|                 |  | RMV Class                                    | 100 17060-1                |

### Situs Addresses

### Value Summary

| Code Area              | AV             | RMV             | MAV            | RMV Exception    |
|------------------------|----------------|-----------------|----------------|------------------|
| 5701 Land              |                | \$15,560        |                | Land \$0         |
| Improvements           |                | \$0             |                | Improvements \$0 |
| <b>Code Area Total</b> | <b>\$8,520</b> | <b>\$15,560</b> | <b>\$8,520</b> | <b>\$0</b>       |
| <b>GRAND TOTAL</b>     | <b>\$8,520</b> | <b>\$15,560</b> | <b>\$8,520</b> | <b>\$0</b>       |

### Land Breakdown

| Code Area              | Plan Zone | Value Source     | Size            | Land Class |
|------------------------|-----------|------------------|-----------------|------------|
| 5701                   | PAI       | Residential Site | 9,750.00 sq ft  |            |
| <b>Code Area Total</b> |           |                  | <b>9,750.00</b> |            |
| <b>GRAND TOTAL</b>     |           |                  | <b>9750</b>     |            |

### Tax Information

| Tax Account | Tax Year | Code Area | Original Tax Due |
|-------------|----------|-----------|------------------|
| 294773      | 2016     | 5701      | 104.98           |

This tax information does not include adjustments or corrections. Please contact the Tax Office for additional information.

### City, School Districts, and Fire Districts

| Code Area | District Name                 | Type   |
|-----------|-------------------------------|--------|
| 5701      | FALLS CITY                    | CITY   |
|           | CHEMEKETA COMMUNITY COLLEGE   | SCHOOL |
|           | FALLS CITY SD 57              | SCHOOL |
|           | FALLS CITY SD 57 LOCAL OPTION | SCHOOL |
|           | WILLAMETTE ESD                | ESD    |

This report does not display every tax district that may apply to this account. Please contact the Tax Office for additional information.

P.29

CH

1/17/2017 9:50:55 AM

Sales History

| Date        | Document (Source ID)  | Type | Price    | Grantor (Seller)                      | Grantee (Buyer)                      |
|-------------|-----------------------|------|----------|---------------------------------------|--------------------------------------|
| 18-Nov-2015 | 2015-12566            | WD   | \$72,500 | CHOAT GAYLE                           | HILLIARD ROYAL L                     |
| 24-Jul-2002 | 2002-11268            | WD   | \$23,500 | GLADDEN VIOLET M, REVOCABLE LIVING TR | CHOAT JOHN L & GAYLE                 |
| 28-May-1998 | 1998-7928 (356-917)   | P/R  |          | LINSCHIED LILLIAN M, EST              | GLADDEN VIOLET M, TR                 |
| 06-Oct-1997 | 1998-150              | LET  |          | LINSCHIED LILLIAN M                   | GLADDEN VIOLET M, RVC LVG TRUST, AGT |
| 29-Sep-1997 | 1997-12619 (342-1818) | B&S  |          | LINSCHIED LILLIAN M                   | GLADDEN VIOLET M, RVC LVG TR, AGT    |
| 20-Mar-1997 | 1997-3740 (332-1697)  | DC   |          | LINSCHIED LILLIAN M                   | GLADDEN VIOLET M, AGT                |
| 25-Apr-1996 | 1996-4980 (316-2073)  | CONT | \$66,950 | LINSCHIED LILLIAN M                   | GLADDEN CLARENCE & VIOLET, AGT       |

Disclaimer: The information presented on this report was generated to support county business. The county makes every effort to keep this information current and accurate. However, the county is not responsible for errors, misuse, omissions, or misrepresentations. Please contact the Assessor's Office for additional information.



C12

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Account 319164 Map 08621BA03600 Code Area - Tax ID 5701-319164



## Polk County Real Property Assessment Overview

FOR ASSESSMENT YEAR 2016

ASSESSMENT QUESTIONS: (503) 623-8391 \*\*\* TAX QUESTIONS: (503) 623-9264

Mailing Name MEIER ANTHONY J  
 Agent  
 In Care Of  
 Mailing Address PO BOX 223  
 FALLS CITY, OR 97344

Account Status Active  
 Legal Description See record

Property Class 121 Unit Info  
 RMV Class 101 18309-1

### Situs Addresses

212 MAIN ST N FALLS CITY, OR 97344

### Value Summary

| Code Area |                        | AV              | RMV             | MAV             | RMV Exception    |
|-----------|------------------------|-----------------|-----------------|-----------------|------------------|
| 5701      | Land                   |                 | \$20,050        |                 | Land \$0         |
|           | Improvements           |                 | \$61,050        |                 | Improvements \$0 |
|           | <b>Code Area Total</b> | <b>\$51,450</b> | <b>\$81,110</b> | <b>\$51,450</b> | <b>\$0</b>       |
|           | <b>GRAND TOTAL</b>     | <b>\$51,450</b> | <b>\$81,110</b> | <b>\$51,450</b> | <b>\$0</b>       |

### Land Breakdown

| Code Area | Plan Zone | Value Source           | Size            | Land Class |
|-----------|-----------|------------------------|-----------------|------------|
| 5701      | PAI       | Residential Site       | 9,900.00 sq ft  |            |
|           |           | <b>Code Area Total</b> | <b>9,900.00</b> |            |
|           |           | <b>GRAND TOTAL</b>     | <b>9900</b>     |            |

### Improvement Breakdown

Stat Class 121 | Residence | One story

| Site | Building | Code Area | Year Built | Sq Ft | Image                  |
|------|----------|-----------|------------|-------|------------------------|
| 1    | 1        | 5701      | 1937       | 961   | View Improvement Image |

First Floor - 961 sq ft

1 Dining Room 1 Living Room 1 Kitchen 2 Bedroom  
 1 Full Bath 1 Utility Room

Garage (Detached) - 510 sq ft

(Unfinished)

Stat Class 300 | Farm bldg | GP SHED

| Site | Building | Code Area | Year Built | Sq Ft | Image                |
|------|----------|-----------|------------|-------|----------------------|
| 1    | 2        | 5701      |            | 150   | No Improvement Image |

### Tax Information

| Tax Account | Tax Year | Code Area | Original Tax Due |
|-------------|----------|-----------|------------------|
| 319164      | 2016     | 5701      | 633.80           |

This tax information does not include adjustments or corrections. Please contact the Tax Office for additional information.

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Account 319154 Map 08621BA03600 Code Area - Tax ID 5701-319164

City, School Districts, and Fire Districts

| Code Area | District Name                 | Type   |
|-----------|-------------------------------|--------|
| 5701      | FALLS CITY                    | CITY   |
|           | CHEMEKETA COMMUNITY COLLEGE   | SCHOOL |
|           | FALLS CITY SD 57              | SCHOOL |
|           | FALLS CITY SD 57 LOCAL OPTION | SCHOOL |
|           | WILLAMETTE ESD                | ESD    |

This report does not display every tax district that may apply to this account. Please contact the Tax Office for additional information.

Sales History

| Date        | Document (Source ID) | Type | Price    | Grantor (Seller)              | Grantee (Buyer)               |
|-------------|----------------------|------|----------|-------------------------------|-------------------------------|
| 15-Dec-2008 | 2008-14321           | WD   | \$44,705 | KITCHIN DOUGLAS & KITCHIN C A | MEER ANTHONY J                |
| 30-May-1997 | 1997-6351 (335-1665) | QC   |          | KITCHIN LEON A & EDNA F       | KITCHIN DOUGLAS & KITCHIN C A |

Disclaimer: The information presented on this report was generated to support county business. The county makes every effort to keep this information current and accurate. However, the county is not responsible for errors, misuse, omissions, or misrepresentations. Please contact the Assessor's Office for additional information.

1/17/2017 11:14 AM  
C114

Account 294786 Map 086218A03700 Code Area - Tax ID 5701-294786

3

## Polk County Real Property Assessment Overview

FOR ASSESSMENT YEAR 2016

ASSESSMENT QUESTIONS: (503) 623-8391 \*\*\* TAX QUESTIONS: (503) 623-9264

|                 |                                       |                   |                |
|-----------------|---------------------------------------|-------------------|----------------|
| Mailing Name    | BEATY KENNETH M & C DARLENE           | Account Status    | Active         |
| Agent           |                                       | Legal Description | See record.    |
| In Care Of      |                                       |                   |                |
| Mailing Address | 216 MAIN ST N<br>FALLS CITY, OR 97344 | Property Class    | 121            |
|                 |                                       | Unit Info         | View/Exception |
|                 |                                       | RMV Class         | 101            |
|                 |                                       |                   | 17061-1        |

### Situs Addresses

216 MAIN ST N FALLS CITY, OR 97344

### Value Summary

| Code Area          | AV              | RMV              | MAV             | RMV Exception |
|--------------------|-----------------|------------------|-----------------|---------------|
| 5701               |                 | \$28,420         |                 | \$0           |
|                    |                 | \$129,880        |                 | \$0           |
| Code Area Total    | \$97,180        | \$158,300        | \$97,180        | \$0           |
| <b>GRAND TOTAL</b> | <b>\$97,180</b> | <b>\$158,300</b> | <b>\$97,180</b> | <b>\$0</b>    |

### Land Breakdown

| Code Area | Plan Zone | Value Source       | Size            | Land Class |
|-----------|-----------|--------------------|-----------------|------------|
| 5701      | PA1       | Residential Site   | 10,099.00 sq ft |            |
|           |           | Code Area Total    | 10,099.00       |            |
|           |           | <b>GRAND TOTAL</b> | <b>10099</b>    |            |

### Improvement Breakdown

Stat Class 138 | Residence | One story with attic

| Site                          | Building       | Code Area    | Year Built | Sq Ft | Image                  |
|-------------------------------|----------------|--------------|------------|-------|------------------------|
| 1                             | 1              | 5701         | 1905       | 1,956 | View Improvement Image |
| First Floor - 1,288 sq ft     |                |              |            |       |                        |
| 1 Dining Room                 | 1 Living Room  | 1 Kitchen    | 1 Bedroom  |       |                        |
| 1 Full Bath                   | 1 Utility Room |              |            |       |                        |
| Attic - 668 sq ft             |                |              |            |       |                        |
| 1 Bedroom                     | 1 Full Bath    | 1 Other Room |            |       | [Finished - 668]       |
| Garage (Detached) - 980 sq ft |                |              |            |       |                        |
|                               |                |              |            |       | [Unfinished]           |

Stat Class 300 | Farm bldg | GP SHED

| Site | Building | Code Area | Year Built | Sq Ft | Image                  |
|------|----------|-----------|------------|-------|------------------------|
| 1    | 2        | 5701      |            | 210   | View Improvement Image |

### Tax Information

| Tax Account | Tax Year | Code Area | Original Tax Due |
|-------------|----------|-----------|------------------|
| 294786      | 2016     | 5701      | 1,197.32         |

This tax information does not include adjustments or corrections. Please contact the Tax Office for additional information.

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Account 294786 Map 08621BA03700 Code Area - Tax ID 5701-294786

City, School Districts, and Fire Districts

| Code Area | District Name                 | Type   |
|-----------|-------------------------------|--------|
| 5701      | FALLS CITY                    | CITY   |
|           | CHEMEKETA COMMUNITY COLLEGE   | SCHOOL |
|           | FALLS CITY SD 57              | SCHOOL |
|           | FALLS CITY SD 57 LOCAL OPTION | SCHOOL |
|           | WILLAMETTE ESD                | ESD    |

This report does not display every tax district that may apply to this account. Please contact the Tax Office for additional information.

Sales History

| Date        | Document (Source ID) | Type | Price     | Grantor (Seller)         | Grantee (Buyer)             |
|-------------|----------------------|------|-----------|--------------------------|-----------------------------|
| 28-Oct-2005 | 2005-18551           | WD   | \$151,500 | MORGAN FRED E & RAMONA J | BEATY KENNETH M & C DARLENE |
| 11-Jun-1992 | -                    |      | \$47,500  |                          |                             |

Disclaimer: The information presented on this report was generated to support county business. The county makes every effort to keep this information current and accurate. However, the county is not responsible for errors, misuse, omissions, or misrepresentations. Please contact the Assessor's Office for additional information.

RECEIVED

C16

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**AGENDA REPORT**

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**TO:** CITY COUNCIL  
**FROM:** DOMENICA PROTHEROE, THROUGH MAYOR TERRY UNGRICHT  
**SUBJECT:** ORDINANCE NO. 546-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-02  
**DATE:** 07/12/2017

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**SUMMARY**

Consider motion for first reading of Ordinance

**PROCESS FOR ADOPTION**

7/12/2017 – Motion to read Ordinance for first time by title only

8/10/2017 – Motion to read Ordinance for a second time by title only

Motion to Adopt Ordinance

9/10/2017 – Motion will take affect if adopted

**BACKGROUND** See Staff Report for CPMA/ZC 2017-02

**PREVIOUS COUNCIL ACTION**

Council has not taken prior action on this zone change

**ALTERNATIVES/FINANCIAL IMPLICATIONS**

N/A

**STAFF RECOMMENDATION**

Staff recommends the City Council read Ordinance 546-2017 by title only

**EXHIBIT**

ORDINANCE NO. 546-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-02.

**PROPOSED MOTION**

I move the City Council of the City of Falls City read the Ordinance 546-2017 for the **first time** by title only. "ORDINANCE NO. 546-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-02."

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**ORDINANCE NO. 546-2017**

**AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 17-02.**

**FINDINGS:** On May 24, 2017, the City of Falls City submitted an application for a zone change and comprehensive plan map amendment (File No. CPMA/ZC 17-02) for 8621BD01800 223 S Main Street, Falls City, Oregon 97344 for a Comprehensive Plan Map Amendment (CPMA) designation from Public Assembly/Institutional (PAI) to Residential (R) on a portion of lot to remove split zone and Zone Change (ZC) from Public Assembly/Institutional (PAI) to Residential (R) on portion of lot to remove split zone; and

**FINDINGS:** The split zoning reflects the historic use of the subject property that was no longer applicable as the result of the July 2015 sale of a parish home for a private ownership; and

**FINDINGS:** A zone change correction will allow Residential (R) permitted and conditional uses compliant with the Falls City Zoning and Development Ordinance; and

**FINDINGS:** The subject property is located within the City of Falls City city limits; and

**FINDINGS:** The agent and owner of the subject property signed the Land Use Application for the zone change; and

**FINDINGS:** Proper notice of the a public hearing was given to the public pursuant to applicable state statutes; and

**FINDINGS:** The Falls City City Council, serving as the Planning Commission, conducted a public hearing on July 20, 2017 at which time interested parties were given full opportunity to be present and heard on the proposed zone change and comprehensive plan map amendment; and

**FINDINGS:** At the close of the public hearing, the City Council voted to approve the request; and

**FINDINGS:** The City Council of the City of Falls City hereby adopts the findings of fact set forth in **Exhibit A**;

**NOW, THEREFORE, THE CITY OF FALLS CITY ORDAINS AS FOLLOWS:**

**SECTION 1.** The split zoning and comprehensive plan designation for the subject property is hereby changed from Public Assembly/Institutional (PAI) Residential (R).

**SECTION 2.** Effective Date of Ordinances is September 10, 2017.

*P. 36*



Exhibit A

**CITY OF FALLS CITY**

299 Mill Street  
Falls City, OR 97344  
503-787-3631

**STAFF REPORT**

**COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE (CPMA/ZC 17-02)**

**Staff Report: JULY 12, 2017**  
**City Council Hearing: JULY 20, 2017**

**I. BACKGROUND**

FILE NUMBER: CPMA/ZC 17-02  
NATURE OF APPLICATION: Comprehensive Plan Map Amendment to change designation from Public Assembly/Institutional to Residential on portion of lot to remove split zone and Zone Change from Public to Residential on portion of lot to remove split zone. No change of use.  
APPLICABLE CRITERIA: Falls City Zoning and Development Ordinance, Sections 2.101, 2.104, 3.105, 3.206, and 3.207  
PROPERTY LOCATION: 223 S. Main Street (Assessors Tax Lot: 8621BD01800)  
APPLICANT: City of Falls City  
OWNER: Jubal Rowton  
ZONE DESIGNATION: Residential (R) and Public (P)  
COMP. PLAN DESIGNATION: Commercial/Industrial and Public  
CURRENT USE: Residential  
SIZE: Approximately .23 acres  
EXHIBITS: A: Assessors Map  
B: Existing and Proposed Zoning  
C: LU Application

**II. REQUEST**

Comprehensive Plan Map Amendment to change designation from Commercial/Industrial (CI) to Residential (R) on portion (4,000 sq. ft.) of lot to remove existing split zoning and Zone Change from Public Assembly/Institutional (PAI) to Residential (R) on same portion of lot to remove split zone.

Both the Comprehensive Plan Map Amendment and the Zone Change are Type III Procedures (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

Because the City of Falls City does not currently have a Planning Commission, this application for a conditional use permit will be heard and decided by the City Council.

**III. CRITERIA - COMPREHENSIVE PLAN MAP AMENDMENT**

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Section 3.206(D): Criteria for Approval: Approval or denial of the application shall be based upon the following criteria:

1. The proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan.

**Applicant Response:** The split zoning and comprehensive plan designation reflects the historic use of the parcel, but is no longer applicable as the result of the July 2015 sale of the property (formerly Church owned) to private use.

**Findings:** Staff finds the proposed amendments are consistent with goals and policies of the Falls City Comprehensive Plan as follows:

Citizen Involvement:

Policy 1- To encourage residents to attend and participate in planning commission, city council meetings and all public hearings.

Policy 2- To make public notices of meetings, zoning and other land use changes, and other planning issues.

Land Use:

Policy 2- The Planning Commission and City Council should only make amendments or changes to this plan after public hearings and official action.

2. The proposed amendment is not in conflict with the Statewide Planning Goals, applicable Oregon Administrative Rules, or State statutes.

**Applicant Response:** See findings under Statewide Planning Goals, below.

**Findings:** See findings under Statewide Planning Goals, below.

3. There is a public need for the proposed amendment.

**Applicant Response:** The use of the property will not change. The residential structure (single wide trailer) was used as the parish house for the church located at 233 N. Main Street. In recent years, the church rented the home for residential use but the property sold to private ownership in July 2015.

**Findings:** Staff finds there is a public need to amend the zoning and comprehensive plans to reflect the previous public designation for the property to a more appropriate use and zone of residential to reflect the private ownership and use in alignment with surrounding residential uses and zones.

4. The property included in a Map Amendment is physically suited for the uses permitted by the proposed comprehensive plan designation, considering the size, shape, topography and vegetation of the subject site.

**Applicant Response:** N/a.

**Findings:** Property to the north, south, and east are residentially zoned and used. As stated by the applicant, the public designation reflected the church ownership and use as a parish house, and later a rental. Staff finds the proposed amendment will better align with the current private ownership and surrounding uses.

5. The property included in a Map Amendment is presently serviced, or will be serviced concurrently with development, with adequate public facilities and services and transportation networks to support the uses permitted by the proposed comprehensive plan designation.

**Applicant Response:** The applicant states there will be no additional impacts to public facilities and services because the use will not change.

**Findings:** Public works reviewed the application and expressed no concerns as the current use and subject application do not propose a change the current use. A change of use or future development of the subject property may be subject to compliance with the FCZDO. Staff finds this criterion can be met, with conditions.

## STATEWIDE PLANNING GOALS

### Findings:

Goal 1: *Citizen Involvement.*

**Findings:** The public will be given the opportunity to voice their concerns at the public hearing before the City Council and will be notified of decisions made on the application. Notice of the public hearing was posted on the subject property 35 days in advance of the hearing and mailed to property owners with 250 of the subject property, in compliance with FCZDO 3.105. Staff finds this criterion is met.

Goal 2: *Land Use Planning.* Establishes 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.

**Findings:** The review of this application is being conducted according to the procedures set forth in the Falls City Development Code, Section 3.105: Type III Procedure. The application is being considered for conformance with the standards set forth in Section 2.101: Residential Zone, as well as for its adherence to the broader goals of the Comprehensive Plan. Staff finds this criterion is met.

Goals 3: *Agricultural Lands.* This goal is not applicable. The subject property is not agricultural land and is located inside the urban growth boundary.

Goal 4: *Forest Lands.* This goal is not applicable. The subject property is not forest land and is located inside the urban growth boundary.

Goal 5: *Natural Resources, Scenic and Historic Areas, and Open Areas.* This goal is not applicable. The subject property does not impact natural or historic resources or open space.

Goal 6: *Air, Water and Land Resources.* This goal is not applicable as the subject property is within the city limits and additional development is not proposed as part of the subject application.

Goal 7: *Areas Subject to Natural Disasters and Hazards.* This goal is not applicable. The subject property is not within the flood, steep slope, or other identified hazard zones.

Goal 8: *Recreation Needs.* This goal is not applicable. This proposed change does not impact recreational lands within the City.

B.40

Goal 9: *Economy of the State*. This goal is not applicable as the previous use was not on the tax assessor records as it was publicly zoned. The proposed change allows the City and County to correctly tax the parcel for the private, residential use.

Goal 10: *Housing*.

**Findings:** Staff finds this goal is met as the proposed change more appropriately zones the subject property to align with current private ownership and current residential use.

Goal 11: *Public Facilities and Services*.

**Findings:** Staff finds this goal is met as the proposed change aims to provide for an orderly, efficient and economical system of delivery of city services and seeks to direct current and new development to locations where facilities and services exist or to buildable areas adjacent to existing service areas. Staff finds the proposed change aligns with existing uses and properties currently served and developed as a residential use.

Goal 12: *Transportation*. This goal is not applicable. The subject property is currently developed and has access to a public street. The subject application does not propose a change of use or new/additional development.

Goal 13: *Energy Conservation*. This goal is not applicable. The subject property is currently developed and has access to a public street. The subject application does not propose a change of use or new/additional development.

Goal 14: *Urbanization*. This goal is not applicable. The subject property is within the city limits and currently developed. Future development would be subject to compliance with the FCZDO.

Goals 15-19. These goals apply to specific geographic locations, none of which are impacted here. Staff finds these goals do not apply.

#### IV. CRITERIA – ZONE CHANGE

Section 3.207(D): Criteria for Approval: Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

1. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use designation.

**Findings:** The Comprehensive Plan designation is Commercial/Industrial with a proposed change to Residential to reflect current use. Staff finds, while residential uses may be permitted in the C/I zone, the Residential Comprehensive Plan designation better reflects uses and designations to the north, south and east. Staff finds this criterion is met.

2. Adequate public facilities, services and transportation networks are in place or are planned to be provided concurrently with the development of the property.

**Findings:** The subject property is currently developed and served by city utilities and transportation networks. Future development or change of use may be subject to the FCZDO, as is included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

3. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

**Findings:** The subject property is currently developed and served by city utilities and transportation networks. Future development or change of use may be subject to the FCZDO, as is included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

4. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.

**Findings:** The subject property is currently developed and served by city utilities and transportation networks. Future development or change of use may be subject to the FCZDO, as is included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

5. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

**Findings:** Staff finds this criterion does not apply.

6. The following additional criteria shall be used to review all non-residential changes:

a. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five (5) years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.

**Findings:** The proposed change aims to more appropriately zone the subject property for a residential use on a portion of a property previously zoned for public use and used by a church that is currently under private ownership and residentially used. Staff finds the proposed change more appropriately zones the property to better inventory and align the use and zone.

b. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

**Findings:** Development is not proposed as part of the subject application. Future development or change of use may be subject to the FCZDO, as is included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

## V. CONCLUSIONS AND RECOMMENDED CONDITIONS OF APPROVAL

The above findings show the criteria are met. Staff recommends approval of the requested Comprehensive Plan Map designation from Commercial/Industrial to Residential and Zone Change

from Public Assembly/Institutional (PAI) to Residential (R), subject to the following conditions of approval:

1. The approval of a zone and comprehensive plan map amendment does not include develop proposals. Future proposed development of the subject property shall require compliance with the FCZDO.

## VI. COUNCIL ACTION

The City Council may take one of the following actions:

- A. Make a motion to adopt the findings in the staff report and approve the requested Comprehensive Plan Map Amendment and Zone Change, subject to the conditions of approval set forth in the staff report.
- B. Make a motion to adopt the findings in the staff report and approve the requested Comprehensive Plan Map Amendment and Zone Change, subject to the conditions of approval set forth in the staff report, as modified to reflect the changes made by the City Council.

*Note: The Council member making the motion needs to state the reasons for the modifications and any revised conditions of approval.*

- C. Make a motion to continue the public hearing to a date and time certain and state the additional information that is needed to allow for a future decision.
- D. Make a motion to deny the requested Comprehensive Plan Map Amendment and Zone Change.

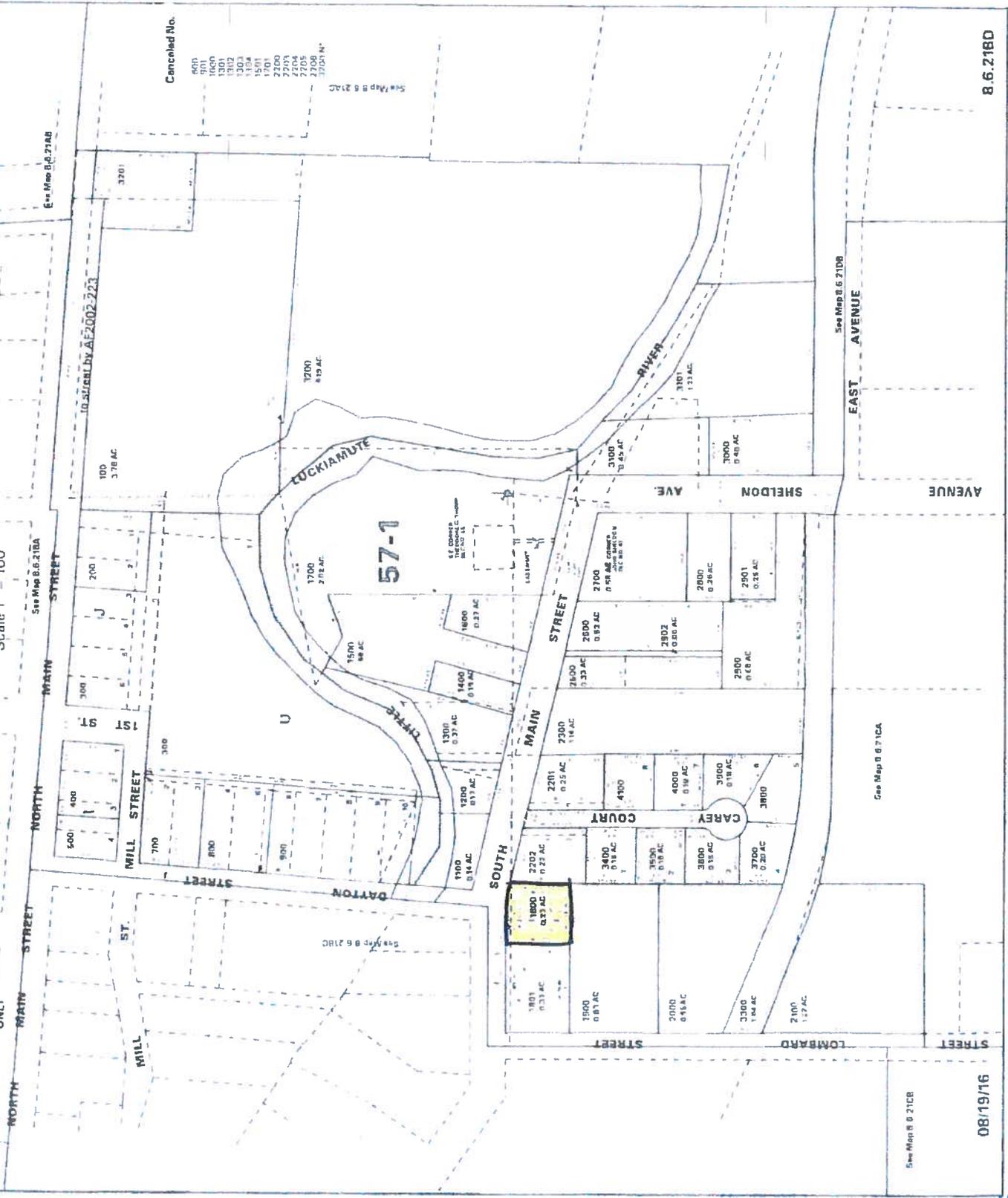
*Note: The Council member making the motion needs to state the reasons for the recommendation of denial.*

8.6.21B0

SE1/4 NW1/4 SEC.21 T8S R6W WM  
POLK COUNTY

Scale 1" = 100'

IMPORTANT  
This Map for Assessment  
and Taxation Purposes  
ONLY



8.6.21B0

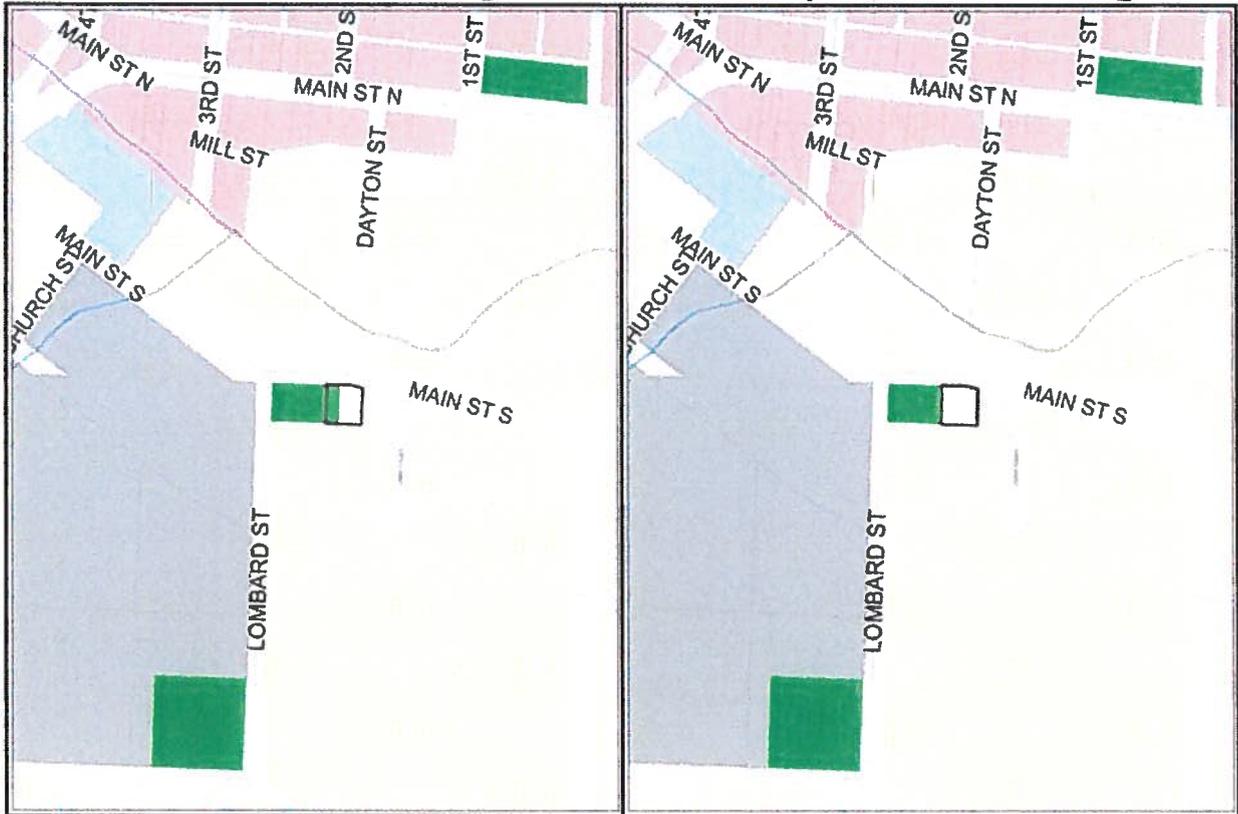
08/19/16

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A

## Current Zoning

## Proposed Zoning



### Legend

|             |                        |                               |
|-------------|------------------------|-------------------------------|
| Streams     | Commercial Industrial  | Public                        |
| Zone Change | Commercial Residential | Public Assembly/Institutional |
| City Limits | Forestry               | Residential                   |
| Taxlots     |                        |                               |

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City of Falls City  
Land Use Application

File # \_\_\_\_\_  
Date Rec'd: \_\_\_\_\_  
Fee Paid: City Council waived fee  
Receipt No.: \_\_\_\_\_  
Rec'd By: Domenica Protheroe

Type I-A Action:

- Access Permit
- Home Occupation Permit
- Lot Line Adjustment
- Manufactured Home Placement Permit
- Sign Permit

Type 1-B Action:

- Flood Plain Development Permit
- Site Design Review
- Temporary Hardship Dwelling
- Partitions

Type II Action:

- Code Interpretation
- Modification to Approval
- Partition Plat Modification

Type III Action:

- Comprehensive Plan Map Amendments involving 5 or fewer adjacent land owners (and zoning map)
- Conditional Use Permit
- Manufactured Home Park
- Planned Unit Development
- Historic Buildings and Sites
- Subdivision
- Variance
- Non-Conforming Use

Type IV Action:

- Annexation
- Zone Change
- Comprehensive Plan Map Amendments involving more than five (5) adjacent land owners

**Other**

- Pre-Application Conference

Please submit completed application and fees to: City of Falls City, 299 Mill Street, Falls City OR 97344

Applicant(s): City of Falls City Telephone: 503.787.3631

Address: 229 Mill Street, Falls City, Oregon 97344

Owner(s): Jubal Rowton Telephone: 503.787.7010

Address: 223 S Main Street, Falls City, Oregon 97344

Engineer/Surveyor: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

.....  
General Information

Map Page and Tax Lot No.: 8.6.21BD01800 Zone: Residential (60 feet) and Public Assembly/Institutional (40 feet)

Location: 223 South Main Street

Legal Description: Situated in Section 21 of township 8 south, range 6 west of the Willamette Meridian, in the county of Polk County and State of Oregon: -Being part of donation land claim of John Sheldon and wife notification #6832, Claim #41 and beginning at a point which is 10.00 chains west from the northeast corner of said claim, thence west 100 feet, thence south 100 feet, thence east 100 feet, thence north 100 feet to the place of beginning.

Existing Zoning/Comprehensive Plan Designation: Residential (60 feet) and Public Assembly/Institutional (40 feet)

Current Use/Structures: Residence and carport

Proposed Use: Residential.

Topography: Flat

Surrounding Uses: North: Residential

South: Residential

East: Residential

West: Public Assembly/Institutional - Church

Acreage of Site: 0.23 Acres

Number/Size of New Lots or Parcels: No change

Natural Features/Hazards of the Subject Site: Flat

Public Utility Providers (gas, electric, water, sewer, telephone): City Water, Septic System, and Pacific Power

Easements: \_\_\_\_\_ Volume and Page Number \_\_\_\_\_

(As recorded in the office of the County Clerk)

Deed Restrictions: \_\_\_\_\_

**SUBMITTAL REQUIREMENTS:** Please see the Falls City Zoning and Development Code for a list of the submittal requirements for each type of land use application.

All land use applicants shall be charged the **ACTUAL COST** to the City of Falls City of rendering a decision on their land use application. Cost shall include but not be limited to: contract planning services, City of Falls City staff time, city attorney time, cost of supplies, printing, legal notices, stamps, and city engineer time spent on reviewing the application.

The applicant will be required to pay the amount set by the ordinance. When a final decision is rendered by either staff or City Council the city will send a final invoice to the applicant. Building permits will not be issued until the land use fees are paid in full to the city.

In the event an applicant chooses to withdraw an application prior to a final decision being made, the cost as set forth by the ordinance or the actual cost, whichever is greater, must be paid in full.

I certify that I have read, understand, and agree to the charges outlined above:

[Redacted Signature] 1/15/2017  
Applicant(s) Signature Date

[Redacted Signature] 1/12/2017  
Applicant(s) Signature Date

We, the following:

Name: JUBAL ROWTON Jubal Rowton Telephone: 541-224-4343

Address: 223 S. main St. Falls City OR 97344

Being the owner(s) of record or contract purchasers of the subject property respectfully petition the City of Falls City Planning Commission and/or Council for permission to (describe request you are making.)

The applicant(s) shall certify that:

- ◆ The request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- ◆ If the application is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◆ All of the statements in this application and the statements in the prior plan, any attachments, and exhibits submitted with this application are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.

Dated this 27<sup>th</sup> day of march, 2017.

Signature of each owner of the subject property. [Redacted Signature] Print name after signature. JUBAL ROWTON



Narrative for Land Use Application for Zoning Map and Comprehensive Plan Map Change  
223 South Main Street (1 lot)

**Application for a Zoning Map and Comprehensive Plan Map Change:**

Change the Zoning Map and the Comprehensive Plan Map for Map Page and Tax Lot # 8.6.21BD01800 to Residential for the entire lot. Remove Public Assembly/Institutional Zone from the 40 by 100 feet section of the lot.

This narrative is in response to information required by the Falls City Zoning and Development Ordinance Section 3.105 (e) for a Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners. This narrative includes background information and impact study.

**Background:**

Church sold parcel on July 30, 2015. The parcel is one lot of record that was split into two different zoning designations on both the Zoning Map and the Comprehensive Plan Map: Residential Zone is 60 by 100 feet and Public Assembly/Institutional Zone is 40 by 100 feet. This split zoning reflects the historic use of the parcel, but is no longer applicable as the result of the July 30, 2015 sale of the property for Residential Use.

Approving this land use application would allow the tax accessors office to correctly tax the parcel as residential and would allow the owner to submit a building permit for a new primary dwelling.

|  |
|--|
| <b>FCZDO 3.105 (e) TYPE III PROCEDURE (QUASI-JUDICIAL) Include an Impact study for all Type III</b><br>The impact study shall quantify/assess the effect of the development on public facilities and services. |
|--|

The use of the property will not change. The residential structure (single wide trailer) was used as the parish house for the First Christian Church located at 233 N. Main Street. In recent years, the Church rented the home for residential use. The Church sold the residence on July 30, 2015 to a private buyer for residential use. There will be no additional impacts to public facilities and services because the use will not change.

# POLK County Assessor's Summary Report

## Real Property Assessment Report

FOR ASSESSMENT YEAR 2017  
NOT OFFICIAL VALUE

January 5, 2017 3:50:04 pm

|   |  |
|---|--|
| <b>Account #</b> 295879<br><b>Map #</b> 08621-BD-01800<br><b>Code - Tax #</b> 5701-295879<br><br><b>Legal Descr</b> Metes & Bounds - See legal report for full description.<br><b>Mailing Name</b> FIRST CHRISTIAN CH, FALLS CITY<br><b>Agent</b> ROWTON JUBAL, AGT<br><b>In Care Of</b><br><b>Mailing Address</b> 223 MAIN ST S<br>FALLS CITY, OR 97344<br><br><b>Prop Class</b> 109 <b>MA</b> <b>SA</b> <b>NH</b> <b>Unit</b><br><b>RMV Class</b> 109 <b>06</b> <b>13</b> <b>000</b> <b>17170-2</b> | <b>Tax Status</b> ASSESSABLE<br><b>Acct Status</b> ACTIVE<br><b>Subtype</b> NORMAL<br><br><b>Deed Reference #</b> 2015-8228<br><b>Sales Date/Price</b> 07-30-2015 / \$37,000.00<br><b>Appraiser</b> SKIDMORE, BROOKE |
|---|--|

| Situs Address(es)   | Situs City |
|---------------------|------------|
| ID# 1 223 MAIN ST S | FALLS CITY |

| Code Area              | Value Summary |               |               |               | CPR %    |
|------------------------|---------------|---------------|---------------|---------------|----------|
|                        | AV            | RMV           | MAV           | RMV Exception |          |
| 5701                   | Land          | 20,000        |               | Land          | 0        |
|                        | Impr.         | 6,280         |               | Impr.         | 0        |
| <b>Code Area Total</b> |               | <b>21,210</b> | <b>26,280</b> | <b>21,210</b> | <b>0</b> |
| <b>Grand Total</b>     |               | <b>21,210</b> | <b>26,280</b> | <b>21,210</b> | <b>0</b> |

| Code Area          | ID# | RFD | Ex | Plan Zone | Value Source     | Land Breakdown |    | Size            | Land Class | LUC | Trended RMV   |
|--------------------|-----|-----|----|-----------|------------------|----------------|----|-----------------|------------|-----|---------------|
|                    |     |     |    |           |                  | TD%            | LS |                 |            |     |               |
| 5701               |     |     |    |           | OSD - AVERAGE    | 100            |    |                 |            |     | 4,560         |
| 5701               | 1   | R   |    | R         | Residential Site | 100            | S  | 9,901.00        |            | *   | 15,500        |
| <b>Grand Total</b> |     |     |    |           |                  |                |    | <b>9,901.00</b> |            |     | <b>20,000</b> |

| Code Area          | ID# | Yr Built | Stat Class | Description               | Improvement Breakdown |               |               | Trended RMV  |              |
|--------------------|-----|----------|------------|---------------------------|-----------------------|---------------|---------------|--------------|--------------|
|                    |     |          |            |                           | TD%                   | Total Sq. Ft. | Ex% MS Acct # |              |              |
| 5701               | 1   | 1998     | 300        | Farm Bldg                 | 100                   | 1,008         |               | 4,470        |              |
| 5701               | 2   | 1998     | 411        | Manf Stct. In conjunction | 100                   | 0             |               | 1,810        |              |
| <b>Grand Total</b> |     |          |            |                           |                       |               |               | <b>1,008</b> | <b>6,280</b> |

**MS Account(s):** 5701-P-500737

**Comments:** 2016 Combined TL 1802 (DEAD) to 1800. VP 3/2018

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*CB*

Printed

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**AGENDA REPORT**

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**TO:** CITY COUNCIL  
**FROM:** DOMENICA PROTHEROE, THROUGH MAYOR TERRY UNGRICHT  
**SUBJECT:** ORDINANCE NO. 547-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-01  
**DATE:** 07/12/2017

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**SUMMARY**

Consider motion for first reading of Ordinance

**PROCESS FOR ADOPTION**

7/12/2017 – Motion to read Ordinance for first time by title only

8/10/2017 – Motion to read Ordinance for a second time by title only

Motion to Adopt Ordinance

9/10/2017 – Motion will take affect if adopted

**BACKGROUND** See Staff Report for CPMA/ZC 2017-01

**PREVIOUS COUNCIL ACTION**

Council has not taken prior action on this zone change

**ALTERNATIVES/FINANCIAL IMPLICATIONS**

N/A

**STAFF RECOMMENDATION**

Staff recommends the City Council read Ordinance 547-2017 by title only

**EXHIBIT**

ORDINANCE NO. 547-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-01.

**PROPOSED MOTION**

I move the City Council of the City of Falls City read the Ordinance 546-2017 for the **first time** by title only. "ORDINANCE NO. 547-2017 AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 2017-01."

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**ORDINANCE NO. 547-2017**

**AN ORDINANCE AMENDING THE CITY OF FALLS CITY ZONING AND COMPREHENSIVE PLAN MAPS, RELATED TO APPLICATION FILE NO. CPMA/ZC 17-01.**

**FINDINGS:** On May 24, 2017, the City of Falls City submitted an application for a zone change and comprehensive plan map amendment (File No. CPMA/ZC 17-01) for 8621BB03600, Falls City, Oregon 97344 for a Comprehensive Plan Map Amendment (CPMA) designation from Residential (R) to Public Open Space (P) and a Zone Change (ZC) from Residential (R) to Public Open Space (P); and

**FINDINGS:** Initially, the community raised money to purchase the subject property in order to protect as open space for future generation; and

**FINDINGS:** The City was awarded a land acquisition grant (LG16-001) from the Oregon Parks and Recreation Department Local Government Grant in September 2016 to purchase the subject property for the expansion of Michael Harding Memorial Park; and

**FINDINGS:** The City recorded the Notice of Grant at Polk County on December 12, 2016 stating that the City was bound by the terms of the Oregon Parks and Recreation Department (OPRD) Grant Agreement that the subject property shall be managed for recreation purposes and consistent with the purposes for which it was entered into, and shall not be converted to other uses, and the City shall not dispose of, exchange, encumber its title or other interest in, or convert the use of the subject property without the approval of OPRD; and

**FINDINGS:** The City took ownership of the land on December 13, 2016; and

**FINDINGS:** There is a need for the proposed amendment to ensure the protection of the OPRD grant award and acceptance of the land dedication to the City; and

**FINDINGS:** The subject property is located within the City of Falls City city limits; and

**FINDINGS:** Proper notice of the a public hearing was given to the public pursuant to applicable state statutes; and

**FINDINGS:** The Falls City City Council, serving as the Planning Commission, conducted a public hearing on July 20, 2017 at which time interested parties were given full opportunity to be present and heard on the proposed zone change and comprehensive plan map amendment; and

**FINDINGS:** At the close of the public hearing, the City Council voted to approve the request; and

**FINDINGS:** The City Council of the City of Falls City hereby adopts the findings of fact set forth in **Exhibit A**;

**NOW, THEREFORE, THE CITY OF FALLS CITY ORDAINS AS FOLLOWS:**



Exhibit A

**CITY OF FALLS CITY**

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299 Mill Street  
Falls City, OR 97344  
503-787-3631

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**STAFF REPORT**

**COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE (CPMA/ZC 17-01)**

**Staff Report: JULY 13, 2017**

**City Council Hearing: JULY 20, 2017**

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**I. BACKGROUND**

**FILE NUMBER:** CPMA/ZC 17-01  
**NATURE OF APPLICATION:** Comprehensive Plan Map and Zone Change from Residential (R) to Public Open Space (P) for expansion of Michael Harding Park.  
**APPLICABLE CRITERIA** Falls City Zoning and Development Ordinance, Sections 2.101, 2.104, 3.105, 3.206, and 3.207  
**PROPERTY LOCATION:** Assessors Tax Lot: 8621BB/03600  
**APPLICANT/OWNER:** **City of Falls City**  
**ZONE DESIGNATION:** Residential (R)  
**COMP. PLAN DESIGNATION:** Residential (R)  
**CURRENT USE:** Recreational open space/No structures  
**SIZE:** Approximately 1.13 acres  
**SURROUNDING ZONING:** North: Residential (R)  
South: Public Open Space (P)  
East: Residential (R)  
West: Residential (R) and Public Open Space (P)

**EXHIBITS:** A: Assessors Map  
B: Existing and Proposed Zoning  
C: LU Application

**II. REQUEST**

Comprehensive Plan Map Amendment and Zone Change from Residential (R) to Public Open Space (P) (approximately 1.13 acres) for expansion of Michael Harding Park.

Both the Comprehensive Plan Map Amendment and the Zone Change are Type III Procedures (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

Because the City of Falls City does not currently have a Planning Commission, this application for a Comprehensive Plan Map Amendment and Zone Change will be heard and decided by the City Council.

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### III. CRITERIA - COMPREHENSIVE PLAN MAP AMENDMENT

Section 3.206(D): Criteria for Approval: Approval or denial of the application shall be based upon the following criteria:

1. The proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan.

#### **Applicant Response: Relevant Comprehensive Plan Goals and Policies**

- **Citizen Involvement:** A Type III land use application provides several opportunities for public comment, including public notice and a public hearing
- **Land Use:** This land use application will be processed in accordance with the Falls City Zoning and Development Ordinance as a Type III comprehensive plan map amendment. The process requires a public hearing and provides notice.
- **Public and Semi-Public Land:** In 2008, the community launched a grassroots "Save the Falls" campaign to raise money for the purchase of The LAND from a private owner. Their goal-protect public access to the Falls for which the City is named, and protect the recreational use of the Land for future generations. Falls City Alliance nonprofit group acquired The LAND on September 5, 2013. This effort speaks loudly for the communities' desire to preserve The LAND as Public Open Space. The City was awarded a land acquisition grant (LG16-011) from the Oregon Parks and Recreation Department Local Government Grant in September 2016 to purchase The LAND for the expansion of Michael Harding Memorial Park. The City took ownership of The LAND on December 13, 2016.
- **Preservation of Stream Corridors:** The LAND has 300' Little Luckiamute River frontage. Rezoning the land to Public Open Space (P) would allow preservation of the stream corridor for this section of the river. The LAND combined with surrounding properties zoned Public Open Space (P) would ensure that approximately 575' of the riparian zone is already protected as Public Open Space on the south side of the Little Luckiamute River when considering Fay Wilson Memorial Park, the public works Old Mill Lot and Michael Harding memorial Park.
- **Open Spaces and Recreational Sites:** Initially, the community raised money to purchase The LAND from a private land owner in order to protect as open space for future generations. The LAND and Falls are treasured by the community. This effort speaks loudly for the communities' desire to preserve The LAND as Public Open Space.
- **Protect Natural Resources:** This proposal does not directly relate to the goal of participation on the Luckiamute River Watershed Council, nor directly contribute to regional planning for fish recovery. Still, with approval of this proposal, an additional 300' of the Little Luckiamute River will be buffered as open space which will enhance water quality, and fish and wildlife habitat.
- **Air, Water and Land Resources Quality:** The LAND has 300' of Little Luckiamute River frontage. Rezoning this land to Public Open Space (P) would allow this section of the river to be buffered from development. The LAND when combined with surrounding properties on the north side of the river zoned Public Open Space (P) would ensure a buffer zone of 575' for water quality and fish.
- **Air Quality Resources:** Walking trails and paths reduce vehicle traffic for close trips. Protecting The LAND as Public Open Space (P) will also provide the community with a highly desirable recreation designation within walking distance. Additionally, The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.
- **Areas Subject to Natural Disasters and Hazards:** The LAND has been identified with several natural hazards in the 2009 Polk County Multiple Jurisdictional Hazard Mitigation Plan: 100-year flood plain, moderate landslide hazard area (14-32 degrees), very high fire hazard area, strong local earth quake hazard zone (peak acceleration 15-20 kg), and potential erosion hazard area.

Public Open Space is the highest and best use of The LAND when considering the identified hazards.

- **Recreational Facilities:** The intent of this proposal is to zone The LAND as Public Open Space (P). It is the intention of the City Council to dedicate The LAND, and adjoining Public Open Space for the expansion of the Michael Harding Memorial Park. The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.
- **Energy Conservation:** Walking trails and paths reduce vehicle use for close trips. The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.

**Findings:** The City of Falls City Comprehensive Plan goals and policies align with Statewide Planning Goals, as outlined below. In addition, the applicant provided specific and applicable citations to adopted Falls City Comprehensive Plan goals and alignment with the subject application under Exhibit C. Staff finds the application is consistent with applicable goals and policies of the Falls City Comprehensive Plan.

2. The proposed amendment is not in conflict with the Statewide Planning Goals, applicable Oregon Administrative Rules, or State statutes.

**Applicant Response:** See applicant response under Statewide Planning Goals, below.

**Findings:** See findings under Statewide Planning Goals, below.

3. There is a public need for the proposed amendment.

**Applicant Response:** A 2008 community grassroots fundraising program led by the Falls City Alliance and labeled "Save the Falls" raised funds to acquire The LAND from a private party. This effort speaks loudly for the public need to protect access to the City namesake Falls. The City of Falls City was awarded OPRD land acquisition grant to purchase The LAND. The OPRD land acquisition grant requires that the zoning of the property to be Public (Public Open Space (P)).

**Findings:** The City of Falls City took ownership of the subject property in December 2016 with the intention of expanding Michael Harding Memorial Park and as a condition of the award and funding assistance from OPRD. Staff finds there is a need for the proposed amendment to ensure the protection of the grant award and acceptance of the land dedication to the City of Falls City and this condition is met.

4. The property included in a Map Amendment is physically suited for the uses permitted by the proposed comprehensive plan designation, considering the size, shape, topography and vegetation of the subject site.

**Applicant Response:** The topography has a natural slope for water run-off. The property is partially forested with native plants with full river frontage and a view of the Falls. The LAND is undeveloped open space that is currently used for recreation. Parks, nature trails, nature preserves or scenic areas are a permitted use within the Public Open Space zone (P).

**Findings:** Staff finds the subject property is suited for the permitted uses under the proposed zone and this criterion is met.

5. The property included in a Map Amendment is presently serviced, or will be serviced concurrently with development, with adequate public facilities and services and transportation networks to support the uses permitted by the proposed comprehensive plan designation.

**Applicant Response:** The use of The LAND will continue to serve recreational needs. Public Open Space (P) surrounds The LAND with three exceptions:

1. East-Residential: Single family dwelling
2. Northwest-Residential: Vacant residential property border the property (Lot 17 and 18). Lot 17 and 18 are undeveloped and zoned Residential (R). Lot 17 is approximately 3,030

square feet in area and lot 18 is approximately 3,550 square feet in area. Both lots of record can be developed for residential purposes, provided they meet the requirements for a Legal Lots of Record as defined by the Falls City Zoning and Development Code Section 2.200.01: Lots of Record

3. North-Residential properties are located on the north side of Mitchell Street.

**Findings:** The subject application does not approve nor propose development of the subject property but rather the change from Residential to Public Open Space. Compliance with the FCZDO shall apply to any future proposed development of the subject property, as included as a recommended condition of approval. Staff finds this criterion can be met with conditions.

## STATEWIDE PLANNING GOALS

Goal 1: *Citizen Involvement.*

**Applicant Response:** The request includes a quasi-judicial review process, so ensuring the opportunity for citizen involvement is necessary.

**Findings:** The public will be given the opportunity to voice their concerns at the public hearing before the City Council and will be notified of decisions made on the application. Notice of the public hearing was posted on the subject property and mailed to property owners within 250 feet in compliance with FCZDO 3.105. Staff finds Goal 1 is met.

Goal 2: *Land Use Planning.* Establishes 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.

**Applicant's Response:** Goal 2 is relevant because the proposal includes a planning review and recommendation, which must have a factual basis. The proposal will be reviewed in accordance with the Falls City Zoning and Development Ordinance and the Falls City Comprehensive Plan.

**Findings:** The review of this application is being conducted according to the procedures set forth in the Falls City Development Code, Section 3.105: Type III Procedure, Section 3.206: Comprehensive Plan Amendments, and Section 3.207: Zone Change Requests. The application is being considered for conformance with the standards set forth in Section 2.104: Public Open Space Zone, as well as for its adherence to the broader goals of the Comprehensive Plan. Staff finds Goal 2 is met.

Goals 3: *Agricultural Lands.* This goal is not applicable. The subject property is not agricultural land and is located inside the urban growth boundary.

Goal 4: *Forest Lands.* This goal is not applicable. The subject property is not forest land and is located inside the urban growth boundary.

Goal 5: *Natural Resources, Scenic and Historic Areas, and Open Areas.* This goal aims to protect natural resources and conserve scenic and historic areas and open spaces.

**Applicant Response:** By approving this proposal, an additional 300' of the Little Luckiamute River will be buffered as open space which will enhance water quality, and fish and wildlife habitat. The LAND when combined with surrounding properties on the north side of the river zoned Public Open Space(P) would ensure approximately 575' buffer zone for water quality and fish. The LAND has been used by generations of residents and regional community members for recreation.

**Findings:** Staff concurs with the applicant that the rezone of the property to Public Open Space and subsequent dedication of land for recreational uses in perpetuity will serve to conserve natural

resources, provide additional buffering of the Luckiamute River, and protect additional open space. Staff finds Goal 5 is met.

*Goal 6: Air, Water and Land Resources.* This goal endeavors to maintain and improve the quality of the air, water and land resources of the State.

**Applicant Response:** By approving this proposal, an additional 300' of the Little Luckiamute River will be buffered as open space which will enhance water quality, and fish and wildlife habitat. The LAND when combined with surrounding properties on the north side of the river zoned Public Open Space(P) would ensure approximately 575' buffer zone for water quality and fish. The LAND has been used by generations of residents and regional community members for recreation.

**Findings:** Staff concurs with the applicant that the additional 300' feet of the Luckiamute River with additional park and open space will serve to maintain and improve water resources of the State. Staff finds Goal 6 is met.

*Goal 7: Areas Subject to Natural Disasters and Hazards.*

**Applicant Response:** The intent of Goal 7 is to protect people and property from the dangers of natural disasters. The LAND has been identified with several natural hazards by the 2009 Polk County Multiple Jurisdictional Hazard Mitigation Plan: 100-year flood plain, moderate landslide hazard area (141-32 degrees), very high fire hazard area, strong local earthquake hazard zone (peak acceleration 15-20 kg), and potential erosion hazard area. Therefore, Public Open Space is the highest and best use of The LAND.

**Findings:** Staff concurs with the applicant that the rezone and subsequent dedication of the subject property for park and open space will serve to protect additional areas subject to natural hazards as identified in the Polk County Hazard Mitigation Plan (2009). Exhibit E also shows the southern portions of the subject property as within the 100-year FEMA floodplain boundary area. Staff finds Goal 7 is met.

*Goal 8: Recreation Needs.*

**Applicant Response:** Goal 8 is applicable because The LAND is used for and will continue to be used to meet the recreational needs of residents and residents of surrounding communities. Access to waterways, nature, and wildlife viewing areas has been identified as top priority needs by Oregon Resident Outdoor Recreation Demand Analysis.

**Findings:** The City of Falls City does not have an adopted Parks Master Plan. However, acceptance of the subject property by the City of Falls City for future park and open space will serve to meet the recreational needs of the community into the future and staff finds Goal 8 is met.

*Goal 9: Economy of the State.*

**Applicant Response:** This request is the first step to expand the Michael Harding Memorial Park to both sides of the river. The future dedication of The LAND for the expansion of Michael Harding Memorial Park will result in preserving the City of Falls City namesake Falls, which residents of Falls City and residents of surrounding areas regard as an attraction for area recreation. Access to waterways, nature, and wildlife viewing areas has been identified as top priority needs by Oregon Resident Outdoor Recreation Demand Analysis. An increase of tourism will benefit local businesses.

**Findings:** Staff finds the rezone of the subject property and expansion of the Michael Haring Memorial Park can serve to attract visitation and increase "stays" or use of the commercial core. The applicant included as part of their application (see Exhibit C, sub Exhibit G) information from the American Planning Association on the intrinsic and potential economic benefits of parks and open space. Staff finds the proposed application may have a beneficial and not detrimental impacts upon commercial activities in the community and Goal 9 is met.

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Goal 10: *Housing.*

**Applicant Response:** Goal 10 is applicable because The LAND is located within Urban Growth Boundary/City Limits. Falls City Comprehensive Plan Land Use Element was last revised in 2001; though fifteen years old, the data still offers value because the population of Falls City has decreased from 966 in 2000 to 950 in recent years. The Falls City Comprehensive Plan Land Use Element Table 2 - Buildable Residential Land Falls City (2001) identifies 76 Vacant (acres), 174.9 Partially Vacant (acres) and 1.7 Redevelopable (acres) for a total of 252.6 available acres of residential land. Approval of this proposal will remove 1.3 acres from the buildable land inventory. Additionally, and as stated under Goal 7 - Area Subject to Natural Hazards, The LAND has been identified to have several natural hazards, therefore is not ideal for residential development and is best suited as public open space.

**Findings:** Staff concurs with the applicant that removal of 1.3 acres of land from the available residential land inventory will not have a significant impact upon available residential land to serve the needs of the community- especially since Falls City has seen a decrease in population since the 2001 buildable lands inventory. In addition, as part of a pending land use application to be reviewed the same evening, the City is reviewing the rezone of 0.68 acres from Public Assembly to Commercial/ Residential (File ZC-17-01) to correct a zoning map error (and to comply with the Comprehensive Plan designation). Staff finds the site is also significantly constrained as outlined above and the rezone of the 1.3 acres will serve to meet the open space needs to current and future residents. Staff finds Goal 10 is met.

Goal 11: *Public Facilities and Services.*

**Applicant Response:** OAR 660-11 implements Goal 11, and notes, "Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons..." The most recent 2015 Portland State University population forecast for the City of Falls City documents a population of 950. The population is less than 2,5000; therefore this goal does not apply.

**Findings:** Public Works reviewed the subject application and expressed no concerns with the proposed change from Residential (R) to Public Open Space (P). Indeed, while the City does not have an adopted Parks Master Plan, the City Council did accept the land for permanent dedication of a park in December 2016. Staff finds Goal 11 is met.

Goal 12: *Transportation*

**Applicant Response:** Goal 12 is not applicable. According to the applicant, there are no plans to develop facilities on this land at this time. Increased vehicle traffic is not anticipated because the current use of the land will not change.

**Findings:** The proposed Comprehensive Plan Map Amendment and Zone Change include an expansion of the existing Michael Harding Park. Parking facilities are not located at the location nor does the City have current plans for developing the property. The proposed rezone and map amendment do not include develop proposals. If the City decides to pursue development in the future, compliance with the FCZDO shall be required. Staff finds Goal 12 can be met, with conditions.

Goal 13: *Energy Conservation.*

**Applicant Response:** The proposal does not include any development or energy producing/consuming elements. Indirectly, walking trails and paths reduce vehicle use for close trips. The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.

**Findings:** The subject application includes no development proposal as part of the map amendments. While the City has expressed interest in a future trail on the site, no development is currently proposed.

Indeed, dedication of the land for a future park/park expansion limits energy demand required for the site. Staff finds this goal has little to no impact and is not applicable.

Goal 14: *Urbanization*.

**Applicant Response:** Goal 14 is not applicable.

**Findings:** The proposed rezone and map amendment do not include develop proposals. If the City decides to pursue development in the future, compliance with the FCZDO shall be required. Staff finds Goal 14 does not apply.

Goals 15-19.

**Applicant Response:** Goals 15-19 are not applicable.

**Findings:** These goals apply to specific geographic locations, none of which are impacted here. Staff finds these goals do not apply.

#### IV. CRITERIA – ZONE CHANGE

Section 3.207(D): Criteria for Approval: Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

1. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use designation.

**Findings:** Staff finds the proposed zone change is appropriate for surrounding uses to the south (Michael Harding Memorial Park) and Publicly zoned land to the west. Residential properties to the north and east are complementary to public and opens spaces. Staff finds this criterion is met.

2. Adequate public facilities, services and transportation networks are in place or are planned to be provided concurrently with the development of the property.

**Findings:** No public utilities currently serve the property nor is developed proposed as part of the subject application. Staff finds this criterion is met.

3. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

**Findings:** No development is proposed as part of the subject application. The site is currently underdeveloped. Staff finds this criterion does not apply.

4. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.

**Findings:** No development is proposed as part of the subject application and the applicant has stated the rezone and map amendment is to expand the existing Michael Harding Memorial Park. Permitted uses in the Public zone include outdoor recreation facilities, nature trails, and natural preserves or scenic areas under FCZDO 2.104.03. Staff finds this criterion is met.

5. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

**Findings:** Staff finds this criteria does not apply.

6. The following additional criteria shall be used to review all non-residential changes:

- a. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five (5) years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.

**Findings:** The City does not have an adopted Parks Master Plan in order to determine whether the current supply of open space/parks is sufficient to meet need. Staff finds the proposed rezone of 1.3 acres from the available residential land inventory will not have a significant impact upon available residential land to serve the needs of the community- especially since Falls City has seen a decrease in population since the 2001 buildable lands inventory. In addition, as part of a pending land use application to be reviewed the same evening, the City is reviewing the rezone of 0.68 acres from Public Assembly to Commercial/ Residential (File ZC-17-01) to correct a zoning map error (and to comply with the Comprehensive Plan designation). Staff finds the site is also significantly constrained as outlined above and the rezone of the 1.3 acres will serve to meet the open space needs to current and future residents. Staff finds Goal 10 is met.

- b. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

**Findings:** Staff finds this criterion does not apply. The Public zone does not allow more intensive permitted uses than those Residential surrounding uses.

## V. CONCLUSIONS AND RECOMMENDED CONDITIONS OF APPROVAL

Staff finds the requested Comprehensive Plan Map and Zone Change from Residential (R) to Public Open Space (P) can meet the criteria in the FCZDO, with conditions. Staff recommends approval of the requested Comprehensive Plan Map and Zone Change from Residential (R) to Public Open Space (P), subject to the following conditions of approval:

1. The approval of a zone and comprehensive plan map amendment does not include develop proposals. If the City decides to pursue development of the subject property in the future, compliance with the FCZDO is be required.

## VI. COUNCIL ACTION

The City Council may take one of the following actions:

- A. Make a motion to adopt the findings in the staff report and approve the requested Comprehensive Plan Map Amendment and Zone Change, subject to the conditions of approval set forth in the staff report.
- B. Make a motion to adopt the findings in the staff report and approve the requested Comprehensive Plan Map Amendment and Zone Change, subject to the conditions of approval set forth in the staff report, and as further modified by the City Council.

*Note: The Council member making the motion needs to state the reasons for the modifications and any revised conditions of approval.*

- C. Make a motion to continue the public hearing to a date and time certain and state the additional information that is needed to allow for a future decision.
- D. Make a motion to deny the requested Comprehensive Plan Map Amendment and Zone Change.

*Note: The Council member making the motion needs to state the reasons for the recommendation of denial.*

IMPORTANT!  
This Map for Assessment  
and Taxation Purposes  
ONLY

NW1/4 NW1/4 SEC 21 T8S R6W WM  
POLK COUNTY

Scale 1" = 100'

See Map 8.6.155C

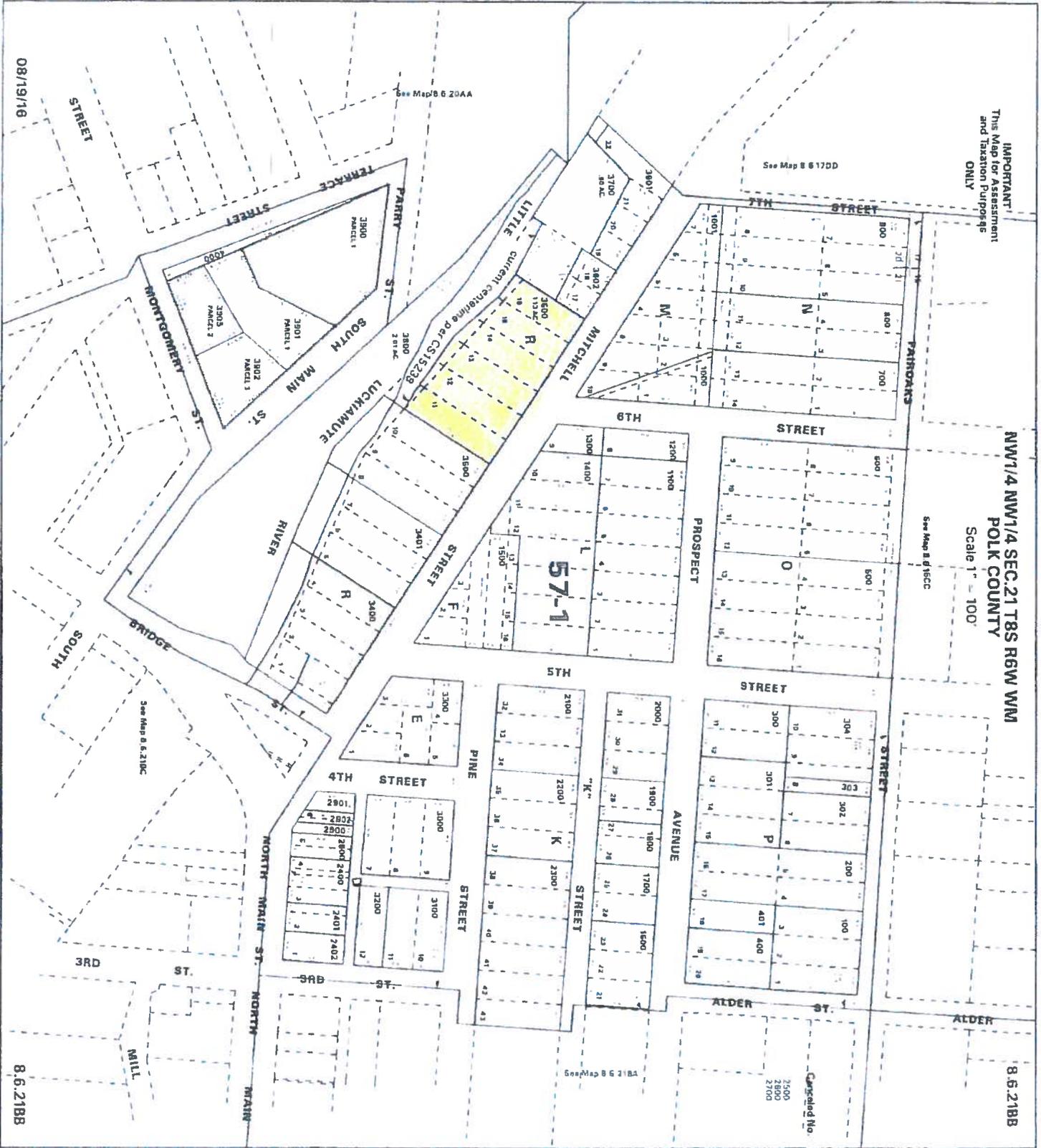
See Map 8.6.17DD

See Map 8.6.20AA

See Map 8.6.210C

See Map 8.6.21BA

Canceled No.  
2500  
2700  
2700



08/19/16

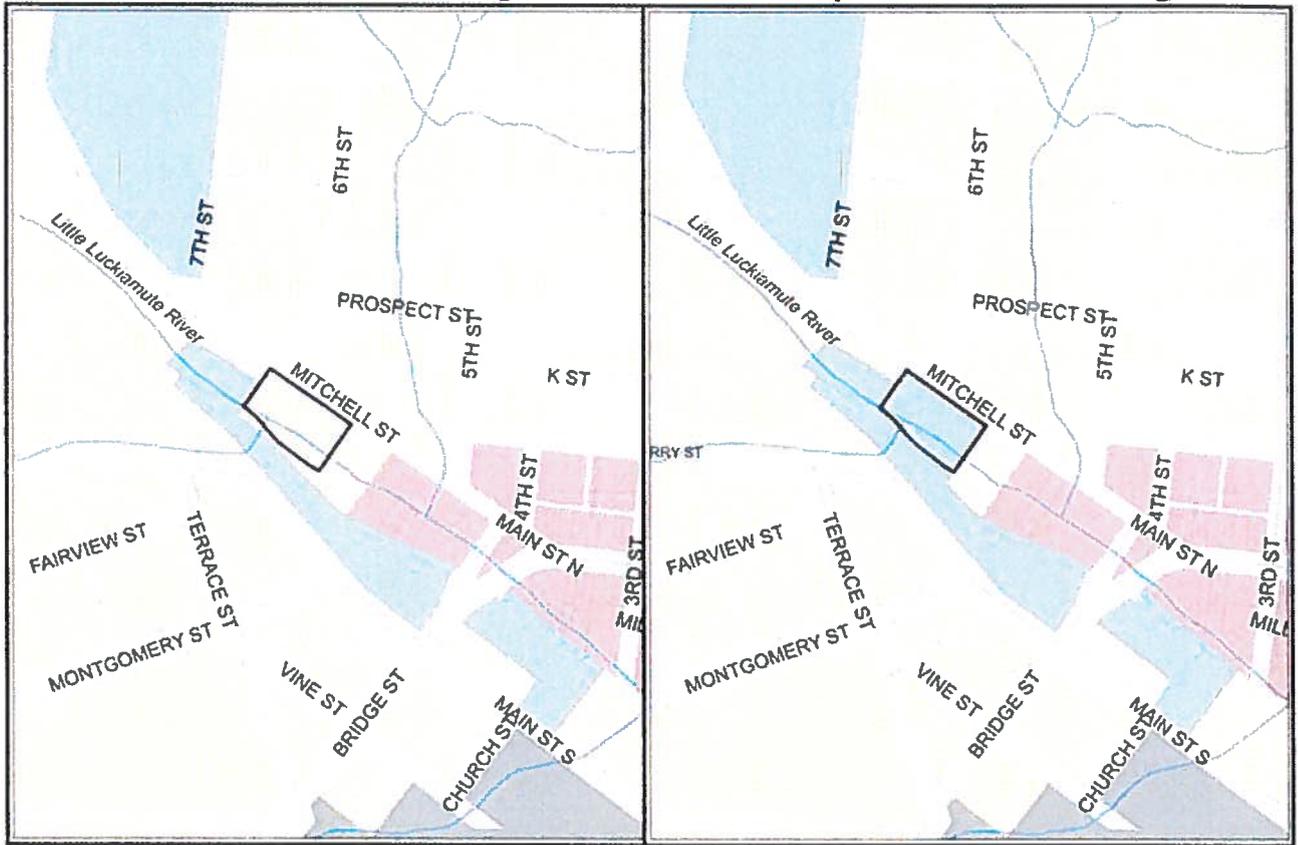
8.6.21BB

8.6.21BB

Exhibit A P.63

## Current Zoning

## Proposed Zoning



### Legend

|             |                        |                               |
|-------------|------------------------|-------------------------------|
| Streams     | Commercial Industrial  | Public                        |
| Zone Change | Commercial Residential | Public Assembly/Institutional |
| City Limits | Forestry               | Residential                   |
| Taxlots     |                        |                               |

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City of Falls City  
Land Use Application

File # \_\_\_\_\_  
Date Rec'd: \_\_\_\_\_  
Fee Paid: City Council waived fee  
Receipt No.: \_\_\_\_\_  
Rec'd By: Domenica Protheroe

---

Type 1-A Action:

- Access Permit
- Home Occupation Permit
- Lot Line Adjustment
- Manufactured Home Placement Permit
- Sign Permit

Type 1-B Action:

- Flood Plain Development Permit
- Site Design Review
- Temporary Hardship Dwelling
- Partitions

Type II Action:

- Code Interpretation
- Modification to Approval
- Partition Plat Modification

Type III Action:

- Comprehensive Plan Map Amendments involving 5 or fewer adjacent land owners
- Conditional Use Permit
- Manufactured Home Park
- Planned Unit Development
- Historic Buildings and Sites
- Subdivision
- Variance
- Non-Conforming Use

Type IV Action:

- Annexation
- Zone Change
- Comprehensive Plan Map Amendments involving more than five (5) adjacent land owners

Other

- Pre-Application Conference

Please submit completed application and fees to: City of Falls City, 299 Mill Street, Falls City OR 97344

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Applicant(s): City of Falls City

Telephone: 503.787.3631

Address: 299 Mill Street, Falls City, Oregon 97344

Owner(s): Same

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Engineer/Surveyor: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

.....  
**General Information**

Map Page and Tax Lot No.: 8.6.21BB03600

Zone: Residential

Location: Vacant land located on Mitchell Street

Legal Description: Lot 11, 12, 13, 14, 15 and 16 Block R, First Addition to the Town of Falls City Polk County, Oregon (Plat Volume 1, Page 51).

Existing Zoning/Comprehensive Plan Designation: Residential

Current Use/Structures: Recreational Open Space. No Structures

Proposed Use: Public Open Space (P) Expansion of Michael Harding Park

Topography: Natural slope for water run-off, partially forested with native plants with full river frontage. A rock outcrop overlooking the city's name sake falls.

Surrounding Uses: North: Residential - Residential properties are located across Mitchell Street.

South: Public - the Little Luckiamute River borders the property. South and across the river - Michael Harding Park.

East: Residential - Residential Structure.

West: Public - Vacant land zoned Public Open Space (P) borders the land.

Northwest: Residential: Vacant residential land boarder the property.

Acreage of Site: 1.13 Acres

Number/Size of New Lots or Parcels: No Change.

Natural Features/Hazards of the Subject Site: The land has been identified with several natural hazards by the 2009 Polk County Multiple Jurisdictional Hazard Mitigation Plan: 100-year flood plain, moderate landslide hazard area (14-32 degrees), very high fire hazard area, strong local earthquake hazard zone (peak acceleration 15-20 kg), and potential erosion hazard area.

Public Utility Providers (gas, electric, water, sewer, telephone): No public Utilities at this time

Easements: Emergency Vehicle and Emergency Personnel Easement, Document 2010-006923 (attached) Volume and Page Number \_\_\_\_\_

(As recorded in the office of the County Clerk)

Deed Restrictions: Notice of Grant/ property shall be managed for recreational purposes (attached)

Last updated on 6/8/07.

Exhibit C2 p.66

SUBMITTAL REQUIREMENTS: Please see the Falls City Zoning and Development Code for a list of the submittal requirements for each type of land use application.

All land use applicants shall be charged the ACTUAL COST to the City of Falls City of rendering a decision on their land use application. Cost shall include but not be limited to: contract planning services, City of Falls City staff time, city attorney time, cost of supplies, printing, legal notices, stamps, and city engineer time spent on reviewing the application.

The applicant will be required to pay the amount set by the ordinance. When a final decision is rendered by either staff or City Council the city will send a final invoice to the applicant. Building permits will not be issued until the land use fees are paid in full to the city.

In the event an applicant chooses to withdraw an application prior to a final decision being made, the cost as set forth by the ordinance or the actual cost, whichever is greater, must be paid in full.

I certify that I have read, understand, and agree to the charges outlined above:

[Redacted Signature] 12/28/2016  
Applicant(s) Signature Date

[Redacted Signature] City Clerk 12/28/2016  
Applicant(s) Signature Date

We, the following:

Name: City of Falls City Telephone: 503-787-3651

Address: 299 Mill Street, Falls City, OR 97344

Being the owner(s) of record or contract purchasers of the subject property respectfully petition the City of Falls City Planning Commission and/or Council for permission to (describe request you are making.)

The applicant(s) shall certify that:

- ◆ The request does not violate any deed restrictions that may be attached to or imposed upon the subject property.
- ◆ If the application is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◆ All of the statements in this application and the statements in the prior plan, any attachments, and exhibits submitted with this application are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.

Dated this 28 day of December, 2016.

Signature of each owner of the subject property.

City of Falls City

Print name after signature

[Redacted Name]

Mayor Terry Ungricht

# Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

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 Exhibit     04    
  
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## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

### **Summary:**

The Oregon Parks and Recreational Department (OPRD) Local Government Acquisition Grant #LG16-011 Michael Harding Park Expansion was awarded to Falls City for the purchase of the vacant land overlooking the Falls on the north side of the Little Luckiamute River. The City took ownership of the land on December 13, 2016 (Exhibit A). A term of the acquisition grant requires the City to change the zoning of the land from Residential (R) to Public [Public Open Space (P)]. Additionally, land acquired using Local Government Grant funds are required to be dedicated for recreational use in perpetuity, by an instrument recorded in the county records, unless OPRD or a successor agency, consents to removal of the dedication (Exhibit A - page 4 and 5).

Approving this proposal would change the zoning of vacant land listed below from Residential (R) to Public Open Space (P).

Lot 11, 12, 13, 14, 15 and 16 Block R, First Addition to the Town of Falls City Polk County, Oregon (Plat Volume 1, Page 51). Falls City Polk County Assessor Map and Tax Lot numbers 8621BB03600 1.13 Acres, hereafter known as "The LAND". (Exhibit B)

This narrative is in response to information required by the Falls City Zoning and Development Ordinance Section 3.206 (D) and Section 3.105 (e) for a Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners. The narrative includes background information, impact study required by FCZDO 3.105 (e), and provides responses to the criteria for approval listed in FCZDO 3.206 (D).

### **History of The LAND<sup>1</sup>:**

The LAND has a long history of recreational use. Members of the Chinook and Calapooia tribes are known to have gathered camas roots in the vicinity of the falls as late as 1841. Osborne Russell took a provisional claim of land that included the falls on the Little Luckiamute River in October 1845; while living on the land, he wrote his noted *Journal of a Trapper*. During the logging boom, a dam was constructed above the falls that was used for power generation for the mill and the city. The dam created a swimming hole, now long gone. In the early days, the falls were a destination for groups having picnics or holiday celebrations and provided a dramatic backdrop for concerts by the Falls City Band.

The LAND and the falls continue to be a treasured recreational resource for the citizens of Falls City and surrounding areas.

In 2008, the community launched the grassroots "Save the Falls" campaign to raise money for the purchase of The LAND from a private owner. The community wanted to protect public access to the Falls, for which the City is named, and to protect the recreational use of The LAND for future generations. Falls City Alliance, a local nonprofit, led the campaign and on September 5, 2013 they acquired The LAND.

The City was awarded a land acquisition grant (LG16-011) from the Oregon Parks and Recreation Department in September 2016 to the purchase The LAND for the expansion of Michael Harding Memorial Park. The City took ownership of The LAND on December 13, 2016. It is the intention of the City Council to dedicate The LAND, and adjoining Public Open Space for the expansion of the Michael Harding Memorial Park.

<sup>1</sup> The Development of Falls City, Oregon 1845-1965 Historic Context Statement, August 1997 (page 4, page 27-28)

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

**FCZDO 3.105 (e) TYPE III PROCEDURE (QUASI-JUDICIAL)** Include an impact study for all Type III  
The impact study shall quantify/assess the effect of the development on public facilities and services.

### The transportation system

Vehicle transportation system: The LAND borders the north bank of the Little Luckiamute River and is accessed from Mitchell Street. Mitchell Street is classified as an Arterial Street<sup>2</sup> in the 2013 Falls City Transportation System Plan. A Mitchell Street traffic study was performed on November 7-8, 2011. Peak hours were 8:00 AM with a volume of 14 vehicles, and 1:00 PM with a volume of 16 vehicles (Exhibit C).

Currently The LAND is used by residents of Falls City and surrounding areas for recreation; primarily during the summer months. Local visitors often walk from their homes to The LAND. Visitors from out of the area park vehicles along Mitchell Street. It is the intention of the City Council to dedicate The LAND, and adjoining Public Open Space for the expansion of the Michael Harding Memorial Park. There are no plans to develop facilities on this land at this time. Increased vehicle traffic is not anticipated because the current use of The LAND will not change.

A bicycle system has not been developed in Falls City. Bicycles share Mitchell Street with vehicle traffic.

The pedestrian system has not been developed in this area. Pedestrians walk on the shoulder of Mitchell Street. The 2013 Falls City Transportation System Plan identified a pedestrian project approximately 400' to the east on the north side of Mitchell Street between 5<sup>th</sup> and 4<sup>th</sup> Street: construction of a 200' sidewalk to provide continued sidewalk connection to N. Main Street. In 2013, this project was estimated at \$19,000.00. Note: This project has not been funded.

### The drainage system

The topography has a natural slope for water run-off. The LAND is partially forested with native plants and has full river frontage.

Soils: Soil classifications: 12A Briedwell silt loam, 64C Salkum silty clay loam and 67D Steiwer silt loam<sup>3</sup> (Exhibit D)

The FEMA flood zone runs through the bottom portion of the property (Exhibit E).

### The parks system

Providing this proposal is approved, The LAND will be rezoned to Public Open Space (P) allowing the Falls for which Falls City was named<sup>4</sup>, to be protected and preserved for future generations.

The adjoining parcels to the west are both owned by the City of Falls City. The largest of which (Map and tax lot: 08621BB03700, 0.50 acres) borders the Little Luckiamute River and is zoned Public Open Space (P). With approved of this proposal, the City Council intends to expand

<sup>2</sup> Arterials – Intra- and inter-community roadways connecting community centers with major facilities. In general, arterials serve both through traffic and local traffic. Access should be partially controlled with infrequent access to abutting properties.

<sup>3</sup> Polk County, Oregon Webmap (OR053)

<sup>4</sup> The Development of Falls City, Oregon 1845-1965 Historic Context Statement 1997

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

Michael Harding Memorial Park to include all land zoned as Public Open Space (P) on the north side of the river (Exhibit F).

The two-acre (0.81 hectare) parcel that includes the Michael Harding Memorial Park on the south side of the Little Luckiamute River (across from The LAND) is listed as a significant open space resource under Scenic Views and Sites<sup>5</sup> in the Falls City Comprehensive Plan.

### **The public at large**

This particular area is known for its outstanding beauty, biological and geological diversity. The LAND is most known for the Falls, for which the City is named, and a large rock outcrop overlooking them. The property has a long history of recreational activity such as fishing, birdwatching, picnicking, walking the undeveloped trails and jumping in the deep pool at the Falls. Upstream from the Falls, big slabs of bedrock emerge from the river and are used for recreation. Rezoning this property to Public Open Space (P) will protect recreational use in perpetuity.

### **Affected private property users**

1. East - Residential: Single family home.
2. West - Public Open Space: Vacant land.
3. Northwest - Residential: Vacant land.
4. North - Residential: homes are located across Mitchell Street.
5. South - Little Luckiamute River.
6. South and across the river-Public Open Space: Michael Harding Memorial Park.

### **Property values**

The American Planning Association published a briefing paper citing studies that indicate parks have a positive effect on real property values, increase municipal revenues, attract and retain retirees, attract workers, and attract homebuyers (Exhibit G).

### **Noise**

Noise levels should be consistent with past years because the recreational use of The LAND will be unchanged. Falls City Municipal Code Chapter 130.053 PUBLIC PARK HOURS (A) No person shall go upon or be in any city park between the period of dusk to dawn the following day.

### **Public facilities systems**

Two easements for the sole and exclusive purpose of emergency vehicle and personnel ingress and egress run across the property. Emergency Vehicle and Emergency Personnel Easement were granted on May 28, 2010 and recorded on July 20, 2010 (Document 2010-006923). An Emergency Vehicle Easement straddles the lot line between lots 13 and 14 and an Emergency Personnel Pedestrian runs along the lower shelf (Exhibit H).

### **Water System**

The LAND does not have a City water service. A water main runs along Mitchell Street.

### **Sewer System**

<sup>5</sup> Definitions "Scenic views and sites" are lands that are valued for their aesthetic appearance (OAR 660-23-230 (1)).

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

The LAND does not have a sewer hookup or restroom facilities. A sewer main is located within 300' of the property. The Budget Committee and City Council will consider funding of a seasonal temporary restroom each fiscal year. Seasonal temporary restrooms are available at the Michael Harding Memorial Park on Parry Road and Fay Wilson Memorial Park located on South Main Street. The George Kitchin Upper Park offers a seasonal restroom facility.

Falls City Zoning and Development Ordinance 3.206 COMPREHENSIVE PLAN AMENDMENTS, D. Criteria for Approval: Approval or denial of the application shall be based upon the following criteria:

### 1. The proposed amendment is consistent with applicable goals and policies of the City of Falls City Comprehensive Plan

Falls City Comprehensive Plan describes Public Open Space Zoning; uses include parks and open space areas that are available to meet the recreational needs of residents of Falls City. The Comprehensive Plan Map does not identify future public open space land.

#### CITIZEN INVOLVEMENT

**GOAL:** To develop a citizen involvement program that gives ample opportunity for the residents of Falls City to participate in the planning process.

Citizen participation in all aspects of the planning effort is necessary to insure the success of the comprehensive plan.

#### Policies:

1. To encourage residents to attend and participate in planning commission meetings, city council meetings and all public hearings.
2. To make public notices of meetings, zoning or other land use changes, and other planning issues.

**Response:** A TYPE III land use application provides several opportunities for public comment, including public notice and a public hearing.

#### LAND USE

**GOAL:** To provide adequate lands to service the needs of the projected population to the year 2020, and to ensure the conversion of property to urban uses in an orderly and timely manner

#### Policies:

1. Zoning is an important means of regulating land uses. Future zoning and rezoning should be in conformance with this plan and its policies.
2. The Planning Commission and City Council should only make any amendments or changes to this plan after public hearings and official action.

**Response:** This land use application will be processed in accordance with the Falls City Zoning and Development Ordinance as a Type III comprehensive plan map amendment. The process requires a public hearing and provides notice.

3. Development should occur as extensions of existing city services occur.
4. The city will establish and maintain a buildable lands inventory at intervals requested by the City Council.
5. Vacant lands within the city with full urban services will be encouraged over annexation of additional lands.

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments Involving five (5) or fewer adjacent land owners

6. The city will consider annexation of property contiguous to the city limits if the developer can provide adequate city-approved water, sanitary sewer, storm drainage facilities, and transportation facilities, if the city can provide adequate public safety services to the property and if other issues of importance to the city are adequately addressed.
7. The city will consider urban growth boundary expansions based upon consideration of the following factors:
  - a. Accommodation of additional population;
  - b. Housing, employment opportunities, and livability;
  - c. Orderly and economical provision of public facilities and services;
  - d. Maximum efficiency of land uses within and on the fringe of the existing urban area;
  - e. The long-term environmental, energy, economic, and social consequences of the locality, the region, and the state as the result of allowing Land Use and not preserving and maintaining the land for agricultural or forestry uses, and
  - f. Compatibility of the proposed urban use with nearby agricultural and forestry activities.

**Response:** Policies 3-7 are not applicable to this land use application.

### Policies Public and Semi-Public Land:

1. Encourage a high level of cooperation and coordination between the school district, Polk County and various State agencies, and the City of Falls City.

**Response:** Policy not applicable to this land use application.

2. Require adequate park, open space and rights-of-way in residential and commercial developments.

**Response:** In 2008, the community launched a grassroots "Save the Falls" campaign to raise money for the purchase of The LAND from a private owner. Their goal - protect public access to the Falls for which the City is named, and protect the recreational use of The LAND for future generations. Falls City Alliance nonprofit group acquired The LAND on September 5, 2013. This effort speaks loudly for the communities' desire to preserve The LAND as Public Open Space. The City was awarded a land acquisition grant (LG16-011) from the Oregon Parks and Recreation Department Local Government Grant in September 2016 to purchase The LAND for the expansion of Michael Harding Memorial Park. The City took ownership of The LAND on December 13, 2016.

3. Encourage the preservation of stream corridors to maintain a buffer from the creeks and the Little Luckiamute River in the city, to allow an area for storm water management, and to maintain the benefits of the vegetative riparian habitat.

**Response:** The LAND has 300' Little Luckiamute River frontage. Rezoning The LAND to Public Open Space (P) would allow preservation of the stream corridor for this section of the river. The LAND combined with surrounding properties zoned Public Open Space (P) would ensure that approximately 575' of the riparian zone on the north side of the river would be preserved. Approximately 1575' of the riparian zone is already protected as Public Open Space on the south side of the Little Luckiamute River when considering Fay Wilson Memorial Park, the public works Old Mill Lot and Michael Harding Memorial Park.

4. Open spaces and recreational sites and facilities should be encouraged to provide for the leisure time needs of the resident and visitor.

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

**Response:** Initially, the community raised money to purchase The LAND from a private land owner in order to protect as open space for future generations. The LAND and Falls are treasured by the community. This effort speaks loudly for the communities' desire to preserve The LAND as Public Open Space.

### **HOUSING**

#### **GOALS AND POLICIES**

**GOALS:** To obtain a variety of housing types and densities to meet the needs of the present and future residents of the community.

To preserve the rural character of existing residential development.

#### **POLICIES:**

1. Conserve and improve structurally sound residential areas that lend character to the community.
2. Encourage an active code enforcement program to maintain existing dwellings at minimum structural standards.
3. Direct interested parties to the appropriate agencies for access to federal funds for the rehabilitation of existing housing.
4. Pursue feasible policies to assist in the provision of adequate rental housing and an adequate supply of housing for the elderly.
5. Expand the variety of housing types available at varying cost in the city.
6. Encourage the availability of necessary programs that will assist in the provision of adequate housing for low-income families.

**Response:** Goals and Policies not applicable to this land use application.

### **PUBLIC FACILITIES and SERVICES**

**GOALS:** To provide for an orderly, efficient and economical system of delivery of city services.

To seek and maintain cooperation and coordination of public services with other governmental agencies.

#### **Objectives:**

1. Maintain and enhance the quality of public facilities and services, and provide them in a timely cost-effective manner.
2. Direct new development to locations where facilities and services exist, or to buildable areas adjacent to the existing service area.
3. To maximize on existing investment, consider service line extension policies that encourage infill development within the existing city.

#### **Policies**

1. The sizing and location of sewer, water and storm drainage lines are to reflect the requirements of desired land use arrangements and densities of the service area.
2. Utilize the provision of community facilities and services as a guide to urban development by phasing and directing growth based on facility and service capability and capacity.
3. Encourage development of vacant land within the city before urbanization of rural land within the urban growth boundary to achieve maximum utilization of public investment.
4. The installation, repair or resizing of municipal service lines should be done prior to, or concurrent with, street improvements.
5. Development costs of approved land development projects shall be paid by the developing agent or agencies, except in cases where over sizing of facilities is a

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

determined need or result of such development; wherein the city may pay for the added cost investment related to over sizing.

**Response:** Goals and Policies not applicable to this land use application.

### GOAL 5 RESOURCES (NATURAL RESOURCES, SCENIC and HISTORIC AREAS, and OPEN SPACES)

Falls City adopted a number of goals and policies to protect natural resources, maintain a livable community and support sustainable development.

**GOAL:** Protect natural resources and conserve scenic and historic areas, and open spaces.

**Objective:** To support regional efforts to improve water quality, wildlife habitat and restore fish habitat in the Luckiamute River Watershed.

**Policies:**

1. Falls City will participate in watershed-based efforts to improve fish and wildlife habitat and water quality in the Luckiamute River Watershed. Participation will include having a representative on the Luckiamute River Watershed Council or coordinating with the small-city representative.
2. Falls City will contribute to, or comment upon, regional water quality improvement planning and fish recovery plans undertaken by state and federal agencies by reviewing and responding to proposed policies and plans.

**Response:** This proposal does not directly relate to the goal of participation on the Luckiamute River Watershed Council, nor directly contributes to regional planning for fish recovery. Still, with approval of this proposal, an additional 300' of the Little Luckiamute River will be buffered as open space which will enhance water quality, and fish and wildlife habitat.

**Objective:** To identify and protect historic and cultural resources in Falls City.

**Policies:**

3. Falls City will implement the existing development code provisions that establish a Historic Landmark Commission; a program for the identification, evaluation, and designation of historic resources as landmarks; public incentives for the preservation of Designated Landmarks; and land use regulations regarding the alteration, moving or demolition of Designated Landmarks and Historic Resources of Statewide Significance.
4. Falls City will cooperate with state agencies and other historic organizations to catalog and preserve historic buildings, artifacts, and archaeological sites.

**Response:** Policies not applicable to this proposal.

**Objective:** To identify and protect scenic resources in Falls City.

**Policy:**

1. Falls City will implement the existing development code provisions for open space resources.

**Response:** The Policy is not applicable to this land use application.

### AIR, WATER and LAND RESOURCES QUALITY

**GOAL:** To maintain and improve the quality of air, water, and land resources in Falls City.

**Objective:** To support regional efforts to improve water quality in the Luckiamute Watershed.

**Policies:**

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

1. Falls City will ensure that land use and development do not degrade water quality associated with fish habitat.

**Response:** The LAND has 300' of Little Luckiamute River frontage. Rezoning this land to Public Open Space (P) would allow this section of the river to be buffered from development. The LAND when combined with surrounding properties on the north side of the river zoned Public Open Space (P) would ensure a buffer zone of 575' for water quality and fish.

2. Falls City will promote water conservation by periodically providing residents with information about water conservation in their utility bill and displaying pamphlets/literature at city hall.

**Response:** Policies not applicable to this land use application.

**Objective:** To reduce the risk of natural resource contamination in Falls City.

**Policies:**

1. All development and activities within the city shall adhere to applicable federal and state air, water, and land quality regulations and standards.
2. Falls City will work with private forestland owners in the Teal and Glaze Creek watershed to protect the city's drinking water supply.
3. Falls City will support the formation of a regional solid waste management program.
4. Future development activities that generate a significant amount of noise will be required to meet all noise regulation of the State of Oregon.
5. Falls City will educate residents about resource contamination by periodically providing information to residents in their utility bill and displaying pamphlets/literature at city hall. The importance of protecting surface and groundwater will be emphasized.

**Response:** Policies not directly applicable to this land use application, though the land use request does support the Objective by protecting The LAND as Public Open Space (P).

**Objective:** To maintain, and when and where feasible, enhance the air quality resources of the community.

1. Falls City will request technical assistance from the Department of Environmental Quality in evaluating development that may adversely impact air resources.
2. When possible, Falls City will encourage alternative forms of transportation to reduce automobile emission pollution.

**Response:** Walking trails and paths reduce vehicle traffic for close trips. Protecting The LAND as Public Open Space (P) will also provide the community with a highly desirable recreation designation within walking distance. Additionally, The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.

### AREAS SUBJECT TO NATURAL DISASTERS and HAZARDS

**GOAL:** To protect life and property in Falls City from natural disasters and hazards.

**Objective:** Develop and integrate a hazard mitigation plan for natural hazards in Falls City.

**Policies:**

1. Falls City will require additional geotechnical investigations and hazard mitigation measures for development and construction occurring in Building Limitations areas or on slopes in excess of 25 percent. Development shall not occur unless the geotechnical investigation demonstrates that the property can be safely developed as proposed.

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

2. In hazard areas outside the floodplain, Falls City shall review proposed development plans for compatibility with public safety.

**Objective:** To reduce earthquake damages in Falls City.

**Policies:**

1. Falls City will support earthquake preparedness and hazard mitigation planning led by other governmental agencies.
2. Falls City will require higher building standards for new schools, fire stations, and medical facilities.

**Response:** Policies not directly applicable to this proposal though The LAND has been identified with several natural hazards in the 2009 Polk County Multiple Jurisdictional Hazard Mitigation Plan: 100-year flood plain, moderate landslide hazard area (14-32 degrees), very high fire hazard area, strong local earth quake hazard zone (peak acceleration 15-20 kg), and potential erosion hazard area. Public Open Space is the highest and best use of The LAND when considering the identified hazards.

### **AGRICULTURE**

**GOAL:** To establish agriculture as an accepted use within the city limits.

Production of food for home use conserves energy and enhances the rural character of the city. Maintenance of the ability to raise livestock and gardens is essential to preserve Falls City's rural lifestyle.

**Policies:**

1. To allow the raising of livestock (with the exception of swine) for home consumption.
2. To allow continued agricultural usage of residential lands.

**Response:** Goals and Policies not applicable to this land use application.

### **FOREST LANDS**

**GOAL:** To protect forest lands for wood production and allow that the growing and harvesting of timber is the primary use of all lands zoned as forest lands.

Forest lands are important to Falls City for several reasons. They provide income to residents, contribute to the scenic beauty of the Falls City area, and provide wildlife habitat.

**Policies:**

1. To use the Oregon Forest Practices Act as a guideline for all rules and regulations pertaining to timber management and harvest in Falls City.
2. To allow Falls City to present recommendations to the Forest Practices Officer concerning the effect of timber cuts on the environment and residents of the City.
3. To encourage current and future forestland owners to maintain and preserve their forest lands for forest uses.
4. To encourage forest land owners to keep the City abreast of their management plans concerning harvesting and reforestation schedules so that the City can prepare for inherent changes in land values, tax revenues, and the general character of the City.
5. To deny extension of City development services (water, street, sewerage) on forest lands unless these services will be used for an accepted non-forest usage.

**Response:** The LAND is not zoned Forest (F). Protecting The LAND as Public Open Space (P) does contribute to the scenic beauty of the Falls City area, and will provide wildlife habitat.

### **RECREATIONAL NEEDS**

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

**GOAL:** To provide the necessary facilities, activities and programs to fulfill the recreational needs of community citizens and visitors from surrounding areas.

Falls City has many areas serving to fulfill the recreation needs of its residents. However, needs change over time and the city must keep aware of these changing needs. Recreation areas may serve as open spaces and as community centers that utilize residents' leisure time in constructive ways.

**Policies:**

1. To annually update the review of the community's recreational needs, and adjust the corresponding priorities.
2. To establish an ongoing program of leisure-time activities for senior citizens and youth.
3. To encourage and support the provision and use of recreational facilities in nearby areas that would assist the local residents in meeting recreational needs.
4. To encourage a study toward the development of a multi-use trail that parallels the Luckiamute River and connects City parks, the falls, and provides areas for parking, staging, and/or transportation services to facilitate access to the Black Rock Mountain Bike area.
5. To support the construction of a trailhead at Michael Harding Memorial Park or adjacent city-owned land, with eventual connection to the Coast Trail proposal presently on file with Polk County.

**Response:** The intent of this proposal is to zone The LAND as Public Open Space (P). It is the intention of the City Council to dedicate The LAND, and adjoining Public Open Space for the expansion of the Michael Harding Memorial Park. The Park and Recreation Committee draft Park Master Plan Includes a trail on The LAND.

### TRANSPORTATION

**GOALS:**

1. Provide a circulation system which is safe and efficient for vehicle users, pedestrians and bicyclists.
2. Establish a street system which is consistent with orderly growth, maximizes quality of life, and minimizes conflicts with adjacent land uses.
3. Encourage energy conservation through efficient transportation planning.
4. Consider methods to create a more equitable and cost effective system of financing street development and improvement.
5. Encourage the provision of street crossing improvements to enhance the mobility of citizens who are elderly or experience physical disabilities.
6. Provide a street system which is consistent with all applicable roadway design standards.
7. Continue communication with public transportation providers in an effort to seek such transportation services for the community.

**POLICIES:**

1. All new land divisions and significant developments are to provide fully improved streets and other public improvements.
2. New building construction in areas already provided with street access shall provide street improvements, where necessary, and shall install curbs and sidewalks, where lacking, along its frontage.
3. New construction shall provide bicycle and pedestrian facilities that provide safe and convenient access within, to, and from new land divisions, planned developments,

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments Involving five (5) or fewer adjacent land owners

- shopping and industrial areas to nearby residential areas, and neighborhood activity centers, such as schools, parks and shopping.
4. Assure that all structures fronting arterial and collector streets are set back the required minimum distance from the established right-of-way.
  5. Traffic movement on streets shall be facilitated by controlling access points wherever possible. Access control shall include restrictions on the number and location of individual encroachments and street intersections.
  6. The City shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with county and state Transportation System Plans (TSP).
  7. The major street network should function so that livability of neighborhoods is preserved.
  8. Promote new street development standards to encourage access to, and development of existing odd shaped and land-locked parcels.
  9. Street design should consider the need for landscaping and noise reduction.
  10. Give priority to street improvements that are necessary to achieve safety, lower maintenance costs and increase efficiency.
  11. The City should seek cooperation with government agencies, private developers and property owners to provide an equitable and cost effective system of financing street development and improvement.
  12. The City shall seek available revenue sources and funding mechanisms to finance identified transportation system needs.
  13. Whenever possible, existing streets shall be extended to serve urban and urbanizable areas.
  14. The City will require, when technically feasible, that streets within a proposed development connect to existing streets at more than one point.
  15. The City shall designate future street locations and extensions of existing streets on the Future Street Network Map and shall use this Map to help guide the design of future development.
  16. In those areas where the City has designated a future street location, the City will ensure the preservation of right-of-way by requiring that all structures and other permanent improvements be located outside the proposed street right-of-way by maintaining the applicable setback standards.
  17. The City will consider vacating unused right-of-way based upon the following factors:
    - a. The street vacation is consistent with the City's transportation goals and policies.
    - b. The right-of-way is not identified as a planned future street on the City's Future Street Network Plan.
    - c. The right-of-way is not needed for existing or future private or public utility, which cannot be reasonably accommodated through the creation of utility easements.
    - d. The proposed vacation would not be detrimental to the public health, safety and welfare.
  18. The City will pursue traffic calming techniques for neighborhood and local streets so as to reduce travel speeds and dust and create a more livable neighborhood environment for residents.

**Response:** Goals and Policies not applicable to this land use application.

### ENERGY CONSERVATION

## Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners

GOAL: To conserve energy.

The costs of energy are rising dramatically. The more dependent Falls City is upon outside sources of energy, the more vulnerable the City is to shortages and high fuel costs. It is in the City's best interest, then, to conserve energy.

Policies:

1. To develop bike and pedestrian paths when feasible.
2. To institute energy saving measures in municipal buildings and other properties when money is available.
3. To encourage energy saving by Falls City residents.

Response: Walking trails and paths reduce vehicle use for close trips. The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.

### ECONOMY AND URBANIZATION

GOAL: To increase the viability and stability of the economy of Falls City as a rural residential and commercial center.

The economic health of Falls City is dependent upon improving the viability of the commercial sector and developing vacant residential lands. Falls City must consider the effects of the local economy and urbanization upon each other.

Policies:

1. To conduct economic development planning by implementing the following steps:
  - a. Complete an inventory of economic needs.
  - b. Identify urban growth potentials and priorities.
  - c. Consider industrial, commercial and residential land use needs when planning future sewage, water, or other major public works improvements.
  - d. Incorporate the above data into a plan for economic and urban development within the City boundaries.
2. To require that all future proposals for land annexations to the City be jointly considered and approved by both Falls City and Polk County. Mutually approved annexation proposals shall be subject to the policies and procedures of the Marion-Polk Boundary Commission. Proposals by individuals for land annexations shall be submitted on forms prescribed by the City, and shall include sufficient information from the applicant to enable a decision.
3. To require that future proposals or plan amendments requiring a revision of the Urban Growth Boundary be jointly considered and approved by both Falls City and Polk County. Actions to revise the Urban Growth Boundary must be based on a determination of satisfactory compliance with the criteria of State Land Use Goal #14, Urbanization. Changes in the Urban Growth Boundary shall be instituted through a Cooperative Urban Services Agreement adopted by Polk County.
4. To restrict additional or new urban services to within the existing City Boundaries. Urban services provided outside City boundaries prior to the adoption of the Comprehensive Plan shall be maintained.
5. To review the Urban Growth Boundary at least every five years, or concurrently with periodic reviews of the Comprehensive Plan.

Response: Goals and Policies not applicable to this land use application.

2. The proposed amendment is not in conflict with the Statewide Planning Goals, applicable Oregon Administrative Rules, or State statutes.

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments Involving five (5) or fewer adjacent land owners**

### **OAR 660-015 Statewide Planning Goals**

There are 19 Statewide Planning Goals that express Oregon's land use policies. Each local government throughout Oregon, including the City of Falls City, must adopt a Comprehensive Plan to implement the Statewide Planning Goals. The City of Falls City adopted a Falls City Comprehensive Plan. The proposed Comprehensive Plan map amendment conforms to all applicable policies and other elements of this plan. Additionally, the City of Falls City has adopted local land use regulations, including a Zoning and Development Ordinance to implement the policies of the Comprehensive Plan. The proposal is consistent with the relevant Statewide Planning Goals. Of the 19 Statewide Planning Goals, goals 1, 2, 5, 6, 7, 8, 9, and 10 are relevant. All other goals do not apply to this application.

**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."

**Response:** The request includes a quasi-judicial review process, so ensuring the opportunity for citizen involvement is necessary.

**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."

**Response:** Goal 2 is relevant because the proposal includes a planning review and recommendation, which must have a factual basis. The proposal will be reviewed in accordance the Falls City Zoning and Development Ordinance and the Falls City Comprehensive Plan.

### **Goal 3 – Agricultural Lands**

**Response:** Goal 3 is not applicable because The LAND is within the City of Falls City Urban Growth Boundary/City Limits.

### **Goal 4 - Forest Lands**

**Response:** Goal 4 is not applicable because The LAND is not zoned Forest (F) by the Comprehensive Plan Map or the Zoning Map.

### **Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces**

#### **Goal 6 – Air, Water and Land Resources**

**Response:** Goal 5 and 6 are applicable. By approving this proposal, an additional 300' of the Little Luckiamute River will be buffered as open space which will enhance water quality, and fish and wildlife habitat. The LAND when combined with surrounding properties on the north side of the river zoned Public Open Space (P) would ensure approximately 575' buffer zone for water quality and fish. The LAND has been used by generations of residents and regional community members for recreation.

### **Goal 7 – Area Subject to Natural Hazards**

**Response:** The intent of Goal 7 is to protect people and property from the dangers of natural disasters. The LAND has been identified with several natural hazards by the 2009 Polk County Multiple Jurisdictional Hazard Mitigation Plan: 100-year flood plain, moderate landslide hazard area (14-32 degrees), very high fire hazard area, strong local earth quake hazard zone (peak acceleration 15-20 kg), and potential erosion hazard area. Therefor Public Open Space is the highest and best use of The LAND.

## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners**

### **Goal 8 – Recreational Needs**

**Response:** Goal 8 is applicable because The LAND is used for and will continue to be used to meet the recreational needs of residents and residents of surrounding communities. Access to waterways, nature, and wildlife viewing areas has been identified as top priority needs by Oregon Resident Outdoor Recreation Demand Analysis<sup>6</sup>.

### **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.”**

**Response:** This request is the first step to expand the Michael Harding Memorial Park to both sides of the river. The future dedication of The LAND for the expansion of Michael Harding Memorial Park will result in preserving the City of Falls City namesake Falls, which residents of Falls City and residents of surrounding areas regard as an attraction for area recreation. Access to waterways, nature, and wildlife viewing areas has been identified as top priority needs by Oregon Resident Outdoor Recreation Demand Analysis. An increase of tourism will benefit local businesses.

### **Goal 10 – Housing, “To provide for the housing needs of Citizens of the state.”**

**Response:** Goal 10 is applicable because The LAND is located within Urban Growth Boundary/City Limits. Falls City Comprehensive Plan Land Use Element was last revised in 2001; though fifteen years old, the data still offers value because the population of Falls City has decreased from 966 in 2000 to 950<sup>7</sup> in recent years. Falls City Comprehensive Plan Land Use Element Table 2 - Buildable Residential Land Falls City, 2001 Zone/Plan Designation identified Zone/Plan Designation 76 Vacant (acres), 174.9 Partially Vacant (acres) and 1.7 Redevelopable (acres) for a total of 252.6 acres. Approval of this proposal will remove 1.3 acres from the buildable land inventory. Additionally and as stated under Goal 7 – Area Subject to Natural Hazards, The LAND has been identified to have several natural hazards, therefore is not ideal for residential development and is best suited as public open space.

### **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.”**

**Response:** OAR 660-11 Implements Goal 11, and notes, “Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons...” The most recent 2015 Portland State University population forecast for the City of Falls City documents a population of 950. The population is less than 2,500; therefore this goal does not apply.

### **Goal 12 – Transportation, “To provide and encourage a safe, convenient and economic transportation system.”**

**Response:** Goal 12 is not applicable.

### **Goal 13- Energy, “To conserve energy.”**

**Response:** The proposal does not include any development or energy producing/consuming elements. Indirectly, walking trails and paths reduce vehicle use for close trips. The Park and Recreation Committee draft Park Master Plan includes a trail on The LAND.

<sup>6</sup> Oregon Resident Outdoor Recreation Demand Analysis, 2013-2017 Oregon Statewide Comprehensive Outdoor Recreation Plan Supporting Documentation, Randall Rosenberger & Kreg Lindberg, 12 November, 2012

<sup>7</sup> 2015 Certified population and 2016 estimated population by Portland State University

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**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.”

**Response:** Goal 14 is not applicable.

### Goals 15 through 19 –

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

**Response:** Goals 15 – 19 are not applicable.

### 3. There is a public need for the proposed amendment.

**Response:** A 2008 community grassroots fundraising program led by the Falls City Alliance and labeled “Save the Falls” raised funds to acquire The LAND from a private party. This effort speaks loudly for the public need to protect access to the City namesake Falls. The City of Falls City the awarded OPRD land acquisition grant to purchase The LAND. The OPRD land acquisition grant requires that the zoning of the property to be Public [Public Open Space (P)].

### 4. The property included in a Map Amendment is physically suited for the uses permitted by the proposed comprehensive plan designation, considering the size, shape, topography and vegetation of the subject site.

**Response:** The topography has a natural slope for water run-off. The property is partially forested with native plants with full river frontage and a view of the Falls. The LAND is undeveloped open space that is currently used for recreation. Parks, nature trails, nature preserves or scenic areas are a permitted use within the Public Open Space zone (P):

*The Falls City Zoning and Development Code Ordinance 2.104.03 PUBLIC OPEN SPACE, PERMITTED USES A. Public outdoor recreation facilities, such as parks, swimming pools, golf courses and playgrounds. B. Nature trails, nature preserves or scenic areas.*

### 5. The property included in a Map Amendment is presently serviced, or will be serviced concurrently with development, with adequate public facilities and services and transportation networks to support the uses permitted by the proposed comprehensive plan designation.

The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

**Response:** The use of The LAND will continue to serve recreational needs. Public Open Space (P) surrounds The LAND with three exceptions:

1. East Residential: Single family dwelling.
2. Northwest Residential: Vacant residential property border the property (Lot 17 and 18). Lot 17 and 18 are undeveloped and zoned Residential (R). Lot 17 is approximately 3,030 square feet in area and lot 18 is approximately 3,550 square feet in area (Exhibit I) Both lots of record

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## **Type III Procedure (Quasi-Judicial): Comprehensive Plan Map Amendments Involving five (5) or fewer adjacent land owners**

can be developed for residential proposes, provided they meet the requirements for a Legal Lots of Record as defined by the Falls City Zoning and Development Code Section 2.200.01 Lots of Record.

3. North – Residential properties are located on the north side of Mitchell Street.

### **Exhibits:**

Exhibit A – Recorded Purchase Agreement and Notice of Grant

Exhibit B – Plot Map for The LAND

Exhibit C – Mitchell Street 2011 Traffic Study

Exhibit D – Soil Map

Exhibit E – Flood Zone Map

Exhibit F – How cities use parks for Economic Development, American Planning Association

Exhibit G – Emergency Vehicle and Emergency Personnel Easement

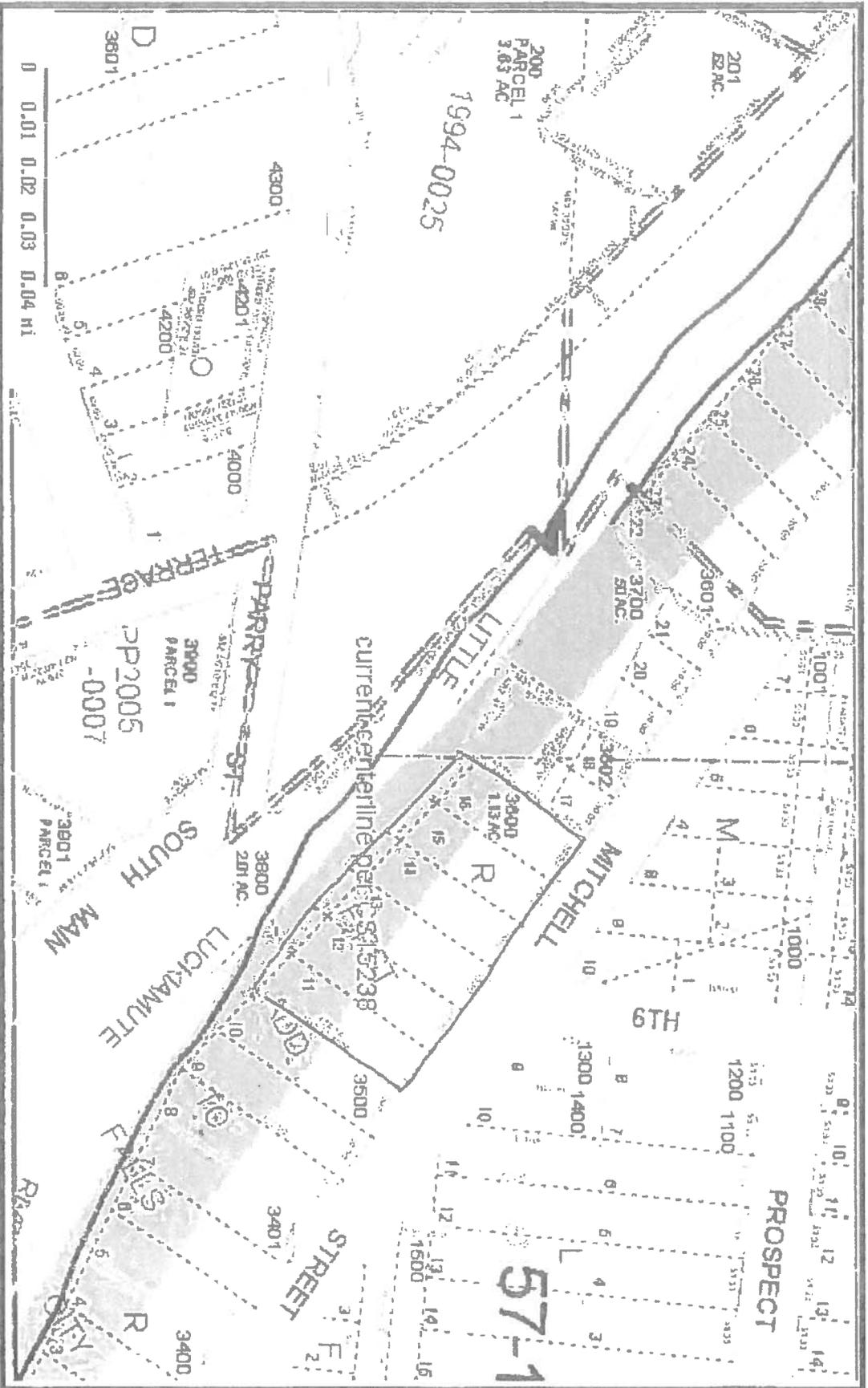
Exhibit H – Plot Map Illustrating two lots of record owned by the City of Falls City that will retain Residential zoning.

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# Polk Co Map

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exhibit E



## Polk County Web Maps v. 2.0

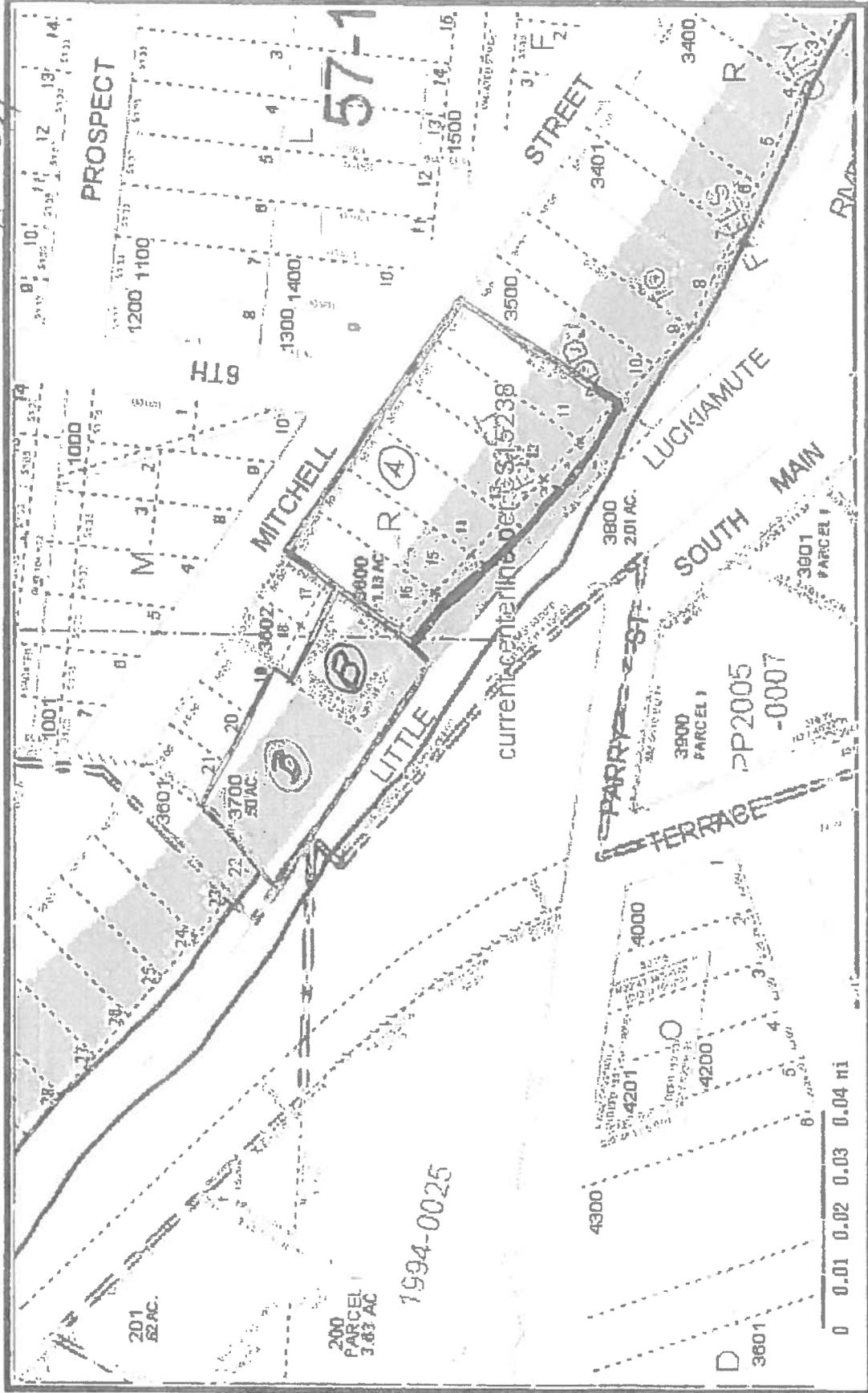
Disclaimer: This map was produced using Polk County GIS data. The GIS data is maintained by the County to support its governmental activities. This map should not be used for survey or engineering purposes. The County is not responsible for map errors, omissions, misuse or misinterpretation.

Printed 11/17/2016

# Polk Co Map

MAP Legend

EXHIBIT A - 1  
 = Fence Flood Zone  
 (A) Newly acquired land  
 (B) Property owned by Falls City



## Polk County Web Maps v. 2.0

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EXHIBIT A

EXHIBIT C22

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03

CITY PARKS FOR ECONOMIC DEVELOPMENT

# How cities use parks for Economic Development

## Executive Summary

*Exhibit G*

Parks provide intrinsic environmental, aesthetic, and recreation benefits to our cities. They are also a source of positive economic benefits. They enhance property values, increase municipal revenue, bring in homebuyers and workers, and attract retirees.

At the bottom line, parks are a good financial investment for a community. Understanding the economic impacts of parks can help decision makers better evaluate the creation and maintenance of urban parks.

### Key Point #1

Real property values are positively affected.

### Key Point #2

Municipal revenues are increased.

### Key Point #3

Affluent retirees are attracted and retained.

### Key Point #4

Knowledge workers and talent are attracted to live and work.

### Key Point #5

Homebuyers are attracted to purchase homes.

EXHIBIT G C23 P.87

**KEY POINT #1:**

*Real property values are positively affected.*

More than 100 years ago, Frederick Law Olmsted conducted a study of how parks help property values. From 1856 to 1873 he tracked the value of property immediately adjacent to Central Park, in order to justify the \$13 million spent on its creation. He found that over the 17-year period there was a \$209 million increase in the value of the property impacted by the park.

As early as the 19th century the positive connection between parks and property values was being made. Olmsted's analysis shows the real dollar amount impact of parks. His study was not a unique situation, however. Several studies conducted over the last 20 years reaffirm his findings, in cities across the country. Below are more examples of how proximity to a park setting is connected to property values.

**Chattanooga, Tennessee:** In the early 1980s this city was facing rising unemployment and crime, polluted air, and a deteriorating quality of life. To lure middle-class residents back, local government, businesses, and community groups decided to improve the quality of life by cleaning the air, acquiring open space, and creating parks and trails. As a result, property values rose more than \$11 million, an increase of 127.5 percent.

**Atlanta:** After Centennial Olympic Park was built, adjacent condominium prices rose from \$115 to \$250 a square foot. As noted on the Centennial Olympic Park website, "Thousands of people who have made the move to downtown Atlanta have chosen Centennial Olympic Park as their front yard." [www.centennialpark.com](http://www.centennialpark.com).

**Amherst, Massachusetts:** Cluster housing with dedicated open space was found to appreciate at an annual rate of 22 percent, compared to a comparable conventional subdivision's rate of 19.5 percent. This translated in 1989 dollars to a difference of \$17,100.

**KEY POINT #2:**

*Municipal revenues are increased.*

Another component of the Central Park study was an assessment of increased tax revenue as a result of the park. The annual excess of increase in tax from the \$209 million in property value was \$4 million more than the increase in annual debt payments for the land and improvement. As a result of building Central Park, New York City made a profit.

Increased property values and increased municipal revenues go hand in hand. Property tax is one of the most important revenue streams for cities. By creating a positive climate for increased property values, the tax rolls will benefit in turn. As shown with Central Park, parks can both pay for themselves and generate extra revenue. In addition, tax revenues from increased retail activity and tourism-related expenditures further increase municipal monies.

**Property Tax Benefits**

**Chattanooga:** Improvements in Chattanooga resulted in an increase in annual combined city and county property tax revenues of \$592,000 from 1988 to 1996, an increase of 99 percent. (Lerner and Poole, 1999).

**Boulder:** The presence of a greenbelt in a Boulder neighborhood was found to add approximately \$500,000 in property tax revenue annually.

**Sales Tax Benefits**

**Oakland, California:** The presence of the East Bay Regional Park District is estimated to stimulate about \$254 million annually in park-related purchases, of which \$74 million is spent in the local East Bay economy.

**Shopping Districts:** Surveys indicate that prices for products in districts with trees were on average about 11 percent greater than in no-tree districts; the quality of products were rated 30 percent higher than in areas with no sidewalk landscaping.

**Tourism-Related Benefits**

**Atlanta:** Centennial Olympic Park has an estimated 1.5 million visitors each year, attending 175 public events.

**San Antonio, Texas:** Riverwalk Park, created for \$425,000 is lined with outdoor cafes, shops, bars, art galleries, and hotels, and has overtaken the Alamo as the most popular attraction for the city's \$3.5-billion tourism industry.

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**KEY POINT #3:***Affluent retirees are attracted and retained*

"There is a new clean growth industry in America today—The industry is retirement migration" (Foreward in Longino, 1995, 7)

By the year 2050, according to the U.S. Census Bureau, approximately 1 in every 4 Americans will be 65 years of age or older, creating an affluent group of retirees with financial benefits, including Social Security, military benefits, and pension plans. With an average life expectancy of between 75 and 83 years, this is a significant population group both in size and affluence.

They are also mobile, moving to various locations across the country—places as diverse as northern Wisconsin and Michigan, the mountains of Colorado and Montana, and New England. Members of this mobile retiree cohort have been termed "GRAMPIES": (Growing [number of] Retired Active Monied People In Excellent Shape).

GRAMPIES want communities that provide leisure and recreation amenities. In a study by Miller et al. (1994), a retiree sample was asked to review 14 features and indicate their importance in the decision to move. The first three in rank order were scenic beauty, recreational opportunities, and mild climate.

Retirees bring expendable income into their communities. If 100 retired households come to a community in a year each with a retirement income of \$40,000, their impact is similar to that of a new business spending \$4 million annually in the community. (Crompton, p. 65).

They increase the tax base and are "positive" taxpayers, using fewer services than they pay for through taxes. For example, they pay taxes to school districts but do not send children there.

Retirees transfer significant assets into local investment and banking institutions, expanding the local deposit base that can be used for commercial and industrial financing.

**KEY POINT #4:***Knowledge workers and talent are attracted to live and work*

"...cities are characterized by a sense of place, beauty in the natural environment, a mixed-use transportation system and a 24-hour lifestyle. These are the characteristics that will attract the creativity and brainpower that undergird the new economy." Steven Roulac, futurist The Roulac Group.

A significant change has occurred in the American economy. Industry today is composed of smokeless industries, high technology, and service-sector businesses, collectively referred to as the "New Economy." The workers in the New Economy are selling their knowledge, as opposed to physical labor, as the main source of wealth creation and economic growth. These employees, referred to in studies as "knowledge workers" or "talent," work in a "footloose" sector—companies are not tied to a certain location in order to achieve a competitive advantage.

What the companies are attached to is retaining their talent and attracting more talent. As a result, several studies have been conducted to determine what factors are important to talent when they are making employment decisions.

A survey of 1,200 high technology workers in 1998 by KPMG found that quality of life in a community increases the attractiveness of a job by 33 percent.

Knowledge workers prefer places with a diverse range of outdoor recreational activities from walking trails to rock climbing. Portland, Seattle, Austin, Denver, and San Francisco are among the top cycling cities; they also are among the leaders in knowledge workers.

Workers attracted to an area are then positioned to put money back into the local economy through jobs, housing, and taxes which then contribute to parks.

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## KEY POINT #5:

*Homebuyers are attracted to purchase homes*

"Parks, ponds, bike paths" "Nearly five acres of woodland protected as a nature sanctuary" "My lake...my park...my home."

All around the U.S. real estate brokers and homebuilders are advocating parks as one of the top residential selling points. The desire to live near parks also translates into real dollars.

A 2001 survey by the National Association of Realtors (NAR) revealed that 57 percent of voters would choose a home close to parks and open space over one that was not.

In addition, the NAR survey found that 50 percent of voters would be willing to pay 10 percent more for a house located near a park or protected open space.

The National Association of Home Builders found that 65 percent of home shoppers surveyed felt that parks would seriously influence them to move to a community.

According to Economics Research Associates (ERA), a 1991 survey in Denver found that 48 percent of residents would pay more to live in a neighborhood near a park or greenway.

One of the most popular planned community models today is golf course residential development. However, surveys have shown that the majority of people who live in golf course communities don't play golf regularly—as many as two-thirds, according to ERA. They are attracted to the dedicated open space, the expansive views, and the guarantee that both elements will stay the same. By promoting, supporting, and revitalizing urban parks, cities can help attract a significant portion of the homebuying community.

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For further information on this paper, please contact the author Megan Lewis, AICP, Assistant Director of The City Parks Forum 312-786-6353 mlew@planning.org

Cover photo: San Antonio Riverwalk, courtesy of Alexander Garvin



## City Parks Forum Briefing Papers

This is one in a continuing series of briefing papers on how cities can use parks to address urban challenges. We hope the information here helps you to create great urban parks in your city.

Please visit our website at [www.planning.org/cpf](http://www.planning.org/cpf) to learn more about The City Parks Forum.



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[www.planning.org](http://www.planning.org)



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After Recording Return To:  
Oregon Parks & Recreation Dept.  
Grant Program Coordinator  
725 Summer ST NE STE C  
Salem, OR 97301

NOTICE OF GRANT

The city of Falls City, Oregon, acting by and through its City Council, is the owner in fee simple of the real property described in Exhibit A (the "Property").

The city of Falls City pledged the Property as match for funds from a grant from the Local Government Grant Program, administered by the Oregon Parks and Recreation Department (OPRD).

The city of Falls City hereby acknowledges and agrees that it is bound by the terms of the Grant Agreement, and that these terms include that this Property shall be managed for recreation purposes and consistent with the purposes for which it was entered into, and shall not be converted to other uses, and that the city of Falls City shall not dispose of, exchange, encumber its title or other interests in, or convert the use of this Property without the approval of OPRD or its successor agencies.

Dated this 12 day of December, 2016.

The city of Falls City, by and through

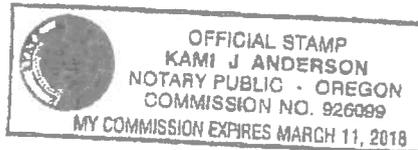
acting by: [Redacted Signature]  
By: [Redacted Signature]

State of Oregon

County of Polk

This instrument was acknowledged before me on 12 12, 2016,  
by [Redacted Name] as City Manager  
for the city of Falls City.

By: [Redacted Signature]  
Notary Public - State of Oregon



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## AGENDA REPORT

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**TO:** CITY COUNCIL  
**FROM:** DOMENICA PROTHEROE, THROUGH MAYOR TERRY UNGRICHT  
**SUBJECT:** ORDINANCE 548-2017 AN ORDINANCE ADOPTING A LEGISLATIVE TEXT AMENDMENT TO THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE SECTIONS 3.210.01 B, 1.202.02, 3.208, 3.102, 3.102, 3.103, 3.105, 3.106, AND REPLACING SECTION 2.210 IN ITS ENTIRETY. FILE NO. LA 17-01  
**DATE:** 07/12/2017

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### SUMMARY

Consider motion for first reading of Ordinance

### PROCESS FOR ADOPTION

7/12/2017 – Motion to read Ordinance for first time by title only

8/10/2017 – Motion to read Ordinance for a second time by title only

Motion to Adopt Ordinance

9/10/2017 – Motion will take affect if adopted

**BACKGROUND** See Staff Report for LA 17-01

### PREVIOUS COUNCIL ACTION

Falls City Council determined that the Falls City Zoning and Development Ordinance placed an unfair burden on parties who desired to consolidate abutting lots of record. City Council directed staff to ease this burden in order to encourage development and redevelopment.

### ALTERNATIVES/FINANCIAL IMPLICATIONS

N/A

### STAFF RECOMMENDATION

Staff recommends the City Council read Ordinance 548-2017 by title only

### EXHIBIT

ORDINANCE 548-2017 AN ORDINANCE ADOPTING A LEGISLATIVE TEXT AMENDMENT TO THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE SECTIONS 3.210.01 B, 1.202.02, 3.208, 3.102, 3.102, 3.103, 3.105, 3.106, AND REPLACING SECTION 2.210 IN ITS ENTIRETY. FILE NO. LA 17-01

### PROPOSED MOTION

I move the City Council of the City of Falls City read the Ordinance 546-2017 for the **first time** by title only. "ORDINANCE 548-2017 AN ORDINANCE ADOPTING A LEGISLATIVE TEXT AMENDMENT TO THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE SECTIONS 3.210.01 B, 1.202.02, 3.208, 3.102, 3.102, 3.103, 3.105, 3.106, AND REPLACING SECTION 2.210 IN ITS ENTIRETY. FILE NO. LA 17-01"

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**ORDINANCE 548-2017**

**AN ORDINANCE ADOPTING A LEGISLATIVE TEXT AMENDMENT TO THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE SECTIONS 3.210.01 B, 1.202.02, 3.208, 3.102, 3.103, 3.105, 3.106, AND REPLACING SECTION 2.210 IN ITS ENTIRETY. FILE NO. LA-01**

**Findings:** There are several platted subdivisions in the city where a party owns more than one abutting lots; and

**Findings:** The lots are lots of record because they were created legally and in accordance with the regulations in effect at the time of the subdivision; and

**Findings:** The Falls City City Council determined that Falls City Zoning and Development Ordinance placed an unfair burden on parties who desired to consolidate abutting lots of record; and

**Findings:** The Falls City City Council directed staff to ease the burden in order to encourage development and redevelopment; and

**Findings:** The Falls City Historic Landmarks Commission reviewed the Oregon Historic Preservation Office model ordinance for historic preservation and desired the clarity offered by the model ordinance for terms and processes; and

**Findings:** The Historic Landmarks Commission worked with staff to modify the model ordinance specifically for the City of Falls City; and

**Findings:** The Historic Landmarks Commission approved the modified Historic Preservation Ordinance and made a recommendation to the City Council to adopt; and

**Findings:** State Statute ORS 197` changed the Department of Land Conservation and Development notice requirements; and

**Findings:** Proper notice of a public hearings was given to the public pursuant to applicable state statutes for legislative amendments; and

**Findings:** Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation was provided to the Oregon Department of Land Conservation and Development (DLCD); and

**Findings:** The Falls City Council conducted a public hearing on July 20, 2017, at which time interested parties were given full opportunity to be present and heard on the proposed text changes to the Falls City Zoning and Development Ordinance; and

**Findings:** At the close of the public hearing on July 20, 2017 the City Council voted to approve the request; and

**Findings:** The City Council of the City of Falls City hereby adopts the findings of fact set forth in **Exhibit A**;

**NOW THEREFORE THE CITY OF FALLS CITY ORDAINS AS FOLLOWS:**

**ORDINANCE 548-2017**

**AN ORDINANCE ADOPTING A LEGISLATIVE TEXT AMENDMENT TO THE FALLS CITY ZONING AND DEVELOPMENT ORDINANCE SECTIONS 3.210.01 B, 1.202.02, 3.208, 3.102, 3.103, 3.105, 3.106, AND REPLACING SECTION 2.210 IN ITS ENTIRETY. FILE NO. LA-01**

**Section 1.** The adoption of amendments to the City of Falls City Zoning and Development Ordinance (FCZDO), as provided in Exhibit A.

**Section 2.** Effective Date of Ordinances is September 10, 2017.

READ FIRST TIME by the Common Council of the City of Falls City this 20 day of July, 2017.

AYES:            NAYS:            ABSTAIN:

READ SECOND TIME AND ADOPTED by the Common Council of the City of Falls City this 10 day of August, 2017.

AYES:            NAYS:            ABSTAIN:

\_\_\_\_\_  
Terry Ungricht, Mayor

ATTEST \_\_\_\_\_  
Domenica Protheroe, City Clerk

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Exhibit A

# CITY OF FALLS CITY

299 Mill Street  
Falls City, OR 97344  
503-787-3631

## STAFF REPORT

### LEGISLATIVE AMENDMENTS TO THE DEVELOPMENT CODE (LA 17-01)

STAFF REPORT: 13 July 2017

CITY COUNCIL HEARING: 20 July 2017

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NATURE OF APPLICATION: Amend the Development Code to clarify the process to consolidate platted lots.

APPLICABLE CRITERIA: Falls City Zoning and Development Ordinance, Section 3.106, E, Decision-Making Consideration

PROPERTY LOCATION: Citywide

APPLICANT/OWNER: City of Falls City

ZONE DESIGNATION: Not applicable

COMP. PLAN DESIGNATION: Not applicable

FILE NUMBER: LA 17-01

EXHIBITS: Not applicable

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## I. BACKGROUND

The City of Falls City has initiated the proposed amendments to the Development Code.

## II. PROCEDURE

A legislative amendment to the Development Code is a Type IV process with the decision made by the City Council after a public hearing (3.102, D).

The Development Code, Section 3.106, sets forth the review procedure and approval criteria for a legislative amendment to the Development Code.

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### III. APPEAL

The decision of the City Council is the final action on the application. An Objection may be filed with the Oregon Department of Land Conservation and Development as part of the Notice of Decision provided to the parties that established standing by testifying orally or in writing at the City Council hearing and the Department's review of the amendments for compliance with the Statewide Planning Goals.

### IV. PROPOSED AMENDMENTS

The following are the proposed amendments to the Development Code. An explanation for each amendment is followed by the proposed amendment. The proposed amendment is shown in mark-up form with deletions in ~~strikethrough~~ and additions in ***bold italics***.

#### 1. Section 3.210.01, B, Replatting.

EXPLANATION: There are several platted subdivisions in the city where a party owns more than one abutting lot. The lots are lots of record because they were created legally and in accordance with the regulations in effect at the time of the subdivision.

A problem arises when a party who owns two or more abutting lots, and a dwelling is on one lot, and the party wants to construct an accessory structure on the other lot.

The Development Code allows accessory structures on the same lot as the primary use. In residential districts the dwelling is the primary use and the dwelling establishes the residential use as the primary use on the property. Any other structure on the property is an accessory structure which is defined in Section 1.202.02 as secondary to the primary use, i.e., it must be subservient to and support the primary use. An accessory structure would be a detached garage, shop for hobbies or storage building for personal affects.

In the past, parties that own two abutting lots with a dwelling on one, have asked to place an accessory structure on their other lot. The city has responded that an accessory structure cannot be placed on a separate lot and it must be placed on the same lot as the dwelling. The owner then must consolidate the lots thereby turning two lots into one lot. The reduction in lots means the plat is changed, for example, the recorded 10 lot subdivision is now a 9 lot subdivision and one of the lots shown on the recorded plat is gone. The term "replat" or "replatting" refers to changing a recorded plat.

The Development Code, Section 3.210.01, B, Replatting, states the following about replats:

- B. A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this Section [the Development Code section on Subdivisions]. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified.

The city has understood 3.210.01, B, to require an owner of two abutting lots to have to go through the subdivision application process with a public hearing and pay the subdivision fee to consolidate their two lots into one lot.

Less than 10 years ago Oregon Revised Statute (ORS) 92.010, Definitions for Tentative and Final Approval of Plans and Plats, was amended. The previous definition of "Property Line Adjustment" allowed the movement of a common property line, but it did not specifically allow Falls City, City Council Hearing, 7/20/17, Legislative Amendments

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the elimination of a common property line. The new definition allows the “elimination” of a common property line. Currently, ORS 92.010(12) states:

(12) “Property line adjustment” means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel. (emphasis added)

The current ORS 92 definition of “property line adjustment” allows a party who owns two abutting lots and needs to consolidate them into one lot to apply for a Property Line Adjustment to eliminate the common property line, thereby reducing the two lots to one lot.

Section 3.210.01, B, is proposed to be amended to clarify that a subdivision application is not needed to eliminate a property line, i.e., consolidate lots.

PROPOSED AMENDMENT TO 3.210.01, B, follows:

B. *Except where a property line adjustment application has been approved by the city to relocate or eliminate all or a portion of a common property line, ~~A~~ a replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this Section [the Development Code section on Subdivisions]. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified.*

COMMENT: The Development Code, Section 3.209, Partitions, does not include language similar to Section 3.210.01, B, Subdivision Replatting, therefore, no amendment to Section 3.209, Partitions, is proposed.

## 2. Section 1.202.02, Definitions.

EXPLANATION: The Development Code’s definition of “Lot Line Adjustment” is proposed to be amended to be consistent with the definition in Statute. ORS 92.010(12) is quoted above, and the language in (12) is proposed to be the new definition in the Development Code.

As part of amending the definition, it is also proposed that the term “Lot Line Adjustment” be amended to “Property Line Adjustment to be consistent with ORS 92.010. Changing the term may seem to be a small issue, but elsewhere in ORS 92 the term “lot” is defined as a unit of land from a subdivision approval and the term “parcel” is defined as a unit of land from a partition approval. As now written, a party could contend the Development Code’s term, “Lot Line Adjustment” does not apply only to lots and not to parcels. Granted, the Development Code’s definition of “Lot Line Adjustment” refers to lots and parcels, but to make the Development Code as clear as possible, the term “Property Line Adjustment” is proposed.

PROPOSED AMENDMENT TO 1.202.02, Definitions, follows:

~~Lot~~ ***Property Line Adjustment: The relocation of a common property line between two contiguous lots or parcels, which does not create any new lots or parcels. A relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.***

3. Section 3.208, Lot Line Adjustments.

EXPLANATION: To reflect the new term “Property Line Adjustment,” Section 3.208, Lot Line Adjustment, is amended to use “Property” and delete “Lot.”

PROPOSED AMENDMENTS TO 3.208, Lot Line Adjustments.

**3.208 ~~LOT~~ *Property* LINE ADJUSTMENTS**

A. Process: ~~Lot~~ *Property* line adjustments shall be processed in accordance with the procedures for a Type I-A ministerial review as set forth in Subsections 3.102(A) and 3.103.

B. Submittal Requirements and Review Criteria: An application for a ~~lot~~ *property* line adjustment must be made upon a form provided by the City staff and contain the information required therein.

C. Criteria for Approval: Approval or denial of the application shall be based on the following criteria:

1. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.

2. Following the ~~lot line~~ adjustment, all lots *and parcels* must comply with lot *or parcel* size and dimensional standards of the applicable land use or zoning district. For nonconforming lots *or parcels*, the adjustment shall not increase the degree of nonconformity of the subject property or surrounding properties.

3. If there are existing structures on the *lots or parcels*, the ~~lot line~~ adjustment may not result in a setback violation.

4. All lots or parcels having access to a public or private street before the adjustment must retain access *to a public or private street* after the adjustment.

4. Section 3.102, Summary of Application Types & Review Procedures.

EXPLANATION:

a. To reflect the new term “Property Line Adjustment,” Section 3.102, A, 1, c, is proposed to be amended to replace “Lot” with “Property.”

b. In addition to the above, it is proposed that 3.102, A, 1, be amended to replace the requirement to send a notice of a decision to the applicant with a requirement to send the actual decision to the applicant. Sending a copy of the decision to the applicant is consistent with 3.103, B and C, Type I-A Procedures (ministerial) which require a copy of the decision to be sent to the applicant.

c. It is also proposed to delete the sentence saying, “Appeal is to the Planning Commission,” and add language indicating that no appeal is possible because the approval criteria are clear and objective. Deleting the sentence about an appeal to the Planning Commission and instead stating there are no provisions provided to appeal, is consistent with 3.103, Type I-A Procedures (ministerial), which does not include any provisions for an appeal.

d. It is also proposed to delete the language in 3.102, 1, stating, “Section 3.103 lists the notice requirements,” because Section 3.103 does not list any notice requirements. As above, 3.103 requires the decision be sent to the applicant, and does not require a notice be sent.

The proposed amendments are shown in the “mark-up” language in #6, below.

5. Section 3.102, Summary of Application Types & Review Procedures.

EXPLANATION: Writing Development Code language that is 100 percent clear for all situations is challenging. There are times when a decision maker (staff, Planning Commission, City Council) must interpret the language of the Development Code when making a decision. There are times when a standalone request to interpret the Code is appropriate. For example, a prospective applicant wants to know how the city interprets a word or phrase in the Development Code before submitting an application – if the language is interpreted one way, the applicant will not go forward with an application, but if it is interpreted in another way, the applicant will go forward with an application.

Interpreting the Development Code’s language as part of a decision or as part of a standalone inquiry is a standard type of land use application and decision and the Development Code should make it clear that the decision maker has the authority to interpret the Development Code’s language as part of the decision. Section 3.102, Summary of Application Types & Review Procedures, does not say that decision makers have such authority.

The following proposed amendments to Section 3.102 add language making it clear that a decision maker has the authority to interpret the Development Code. An exception is the decision maker for a Type I-A action is not given the authority to exercise discretion or judgment to interpret the Code because Type I-A actions are based on clear and objective criteria. With clear and objective criteria each approval criterion is reviewed and it is either met or not met. If a criterion is not met, then the application is denied. If all the criterion are met, then the application is approved.

For example, a clear an objective criterion for a property line adjustment application would be:

1. The minimum lot/parcel size after the adjustment shall meet the minimum lot size in the zone.

If the minimum lot/parcel size in the zone is 5,000 square feet and the lots/parcels after the adjustment would be 5,1000 square feet and 5,200 square feet, it takes no judgment or discretion to conclude the 5,000 square foot minimum lot/parcel size is met.

Because the criteria are clear and objective and no discretion or judgment is exercised, the nearby property owners are not notified or asked for comments and no notice of the decision is provided to them because if the clear and objective criteria are met, there would be nothing to appeal.

The following proposed amendments would allow all decision makers to interpret the Development Code provided a notice of the decision and the opportunity to appeal the decision is provide to nearby property owners.

The proposed amendments are shown in the “mark-up” language in #6, below.

6. Section 3.102, Summary of Application Types & Review Procedures.

EXPLANATION: Occasionally, a Property Line Adjustment application may be most effectively reviewed and decided provided a condition of approval is included. The decision to include a condition of approval means the decision maker uses discretion and the exercise of judgment. Such discretion and judgment means the Type I-A procedures cannot be used, and instead the Type I-B procedures would be used, but 3.102, A, 2, doesn't list “Property Line Adjustment with discretion” as a Type I-B action.

PROPOSED AMENDMENTS TO 3.102, Summary of Application Types & Review Procedures.

The following include the proposed amendments discussed in #'s 4, 5 and 6, and the historic resources in #9.

**3.102 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES**

All development permits and land use actions, except building permits, shall be decided using the procedures contained in this Section. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are four (4) types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below.

A. Type I Procedure (Administrative). Type I decisions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. This process is further divided into two parts:

1. Type 1-A: A ministerial action reviewed by staff based on clear and objective standards. No conditions may be placed on the decision and ~~notice of~~ the decision is sent only to the applicant. ~~Section 3.103 lists the notice requirements. Appeal is to the Planning Commission. An appeal is not provided to any party because the approval criteria are clear and objective.~~ The following actions are processed under a Type I-A procedure:

- a. Access Permit (public street)
- b. Home Occupation Permit
- c. ~~Lot~~ **Property** Line Adjustment
- d. Sign Permit
- e. **Certificate of Appropriateness (COA) (Historic Preservation Officer)**

2. Type I-B: A ministerial action reviewed by the Planning Commission based on generally clear and objective standards with some discretion afforded to Planning Commission. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Section 3.104 lists

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the notice requirements. *An interpretation of the Development Code's language may be included in the decision.* Appeal is to the City Council. The following actions are processed under the Type I-B procedure:

- a. Partitions
- b. Site Design Review
- c. Temporary Hardship Dwelling
- d. Flood Plain Development Permit
- e. *Property Line Adjustment with discretion*

B. Type II Procedure (Administrative): Type II decisions are made by the City Recorder with public notice *sent to the applicant and property owners within the required notice area and an opportunity for a public hearing.* *An interpretation of the Development Code's language may be included in the decision.* The appeal of a Type II decision is heard by the Planning Commission. The following shall be processed under the Type II procedure:

1. Code Interpretation (*standalone application*)
2. Modification to Approval *of a land use action*
3. Partition Plat Modification

C. Type III Procedure (Quasi-Judicial): Type III decisions are made by the Planning Commission *and the Historic Landmark Commission* after a public hearing, with appeals reviewed by the City Council. Type III decisions ~~generally use~~ *include* discretionary approval criteria. *An interpretation of the Development Code's language may be included in the decision.* The following actions are processed under a Type III procedure:

1. Conditional Use Permit
2. Variance
3. Subdivision
4. Manufactured home park, Planned Unit Development, or Historic Buildings and Sites
5. Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners
6. Any Type II application referred by Staff due to Staff's determination that the application does not meet the criteria for a Type II action.
7. *Certificate of Appropriateness (COA) (Historic Landmark Commission)*
8. *Designation of a Historic Resource to the Local Landmark Register (Historic Landmark Commission)*
9. *Removal of a Historic Resource from the Local Landmark Register (Historic Landmark Commission)*

D. Type IV Action Procedure (Legislative): Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. *An interpretation of the*

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*Development Code's language may be included in the decision.* The following actions are processed under a Type IV procedure:

1. Text Amendments to the Comprehensive Plan
2. Text Amendments to the Zoning and Development Code
3. Enactment of a new Comprehensive Plan or Zoning and Development Code text
4. Comprehensive Plan Map Amendments involving more than five (5) adjacent land owner or non-adjacent properties
5. Zone changes
6. Annexation.

7. Section 3.103, Type I-A Procedure (Ministerial).

EXPLANATION: The proposed amendments to 3.102, in #6, above, show the need to amend 3.103, B, which says the decision maker (City Recorder) may approve, approve with conditions, or deny the application. Based on the discussion in #4, above, the approval criteria for a Type I-A application are clear and objective and, consistent with objective criteria, 3.102, A, 1, says, "No conditions may be placed on the decision..." Section 3.103, B, must be amended to delete the reference to the decision maker approving a Type I-A application with conditions.

PROPOSED AMENDMENT TO 3.103, B, Type I-A Procedure (Ministerial).

**3.103 TYPE I-A PROCEDURE (MINISTERIAL)**

A. Application Requirements.

1. Application Forms. Type I-A applications shall be made on forms provided by the City.
2. Application Requirements. Type I-A applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required fee.

B. Administrative Decision Requirements. The City Recorder's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Recorder shall approve, ~~approve with conditions~~, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the City

D. Effective Day. The decision is effective the day after it is final.

8. Section 3.106, Type IV Procedure (Legislative).

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State Statute ORS 197 has been changed from requiring a 45 calendar day notice to the Oregon Department of Land Conservation and Development of a proposed post-acknowledgement plan amendment to a 35 calendar day notice. Section 3.106, B, 2, d, calls for the old 45 calendar day notice and it is proposed to be changed to 35 calendar days.

Similarly, State Statute ORS 197 has been changed from requiring a 5 calendar day notice to the Oregon Department of Land Conservation and Development of the adoption of a post-acknowledgement plan amendment to a 20 calendar day notice. Section 3.106, H, calls for the old 5 calendar day notice and it is proposed to be changed to 20 calendar days. Additional amendments are proposed to clarify who gets the notice of the adoption and clarifies the 20 day period is from the adoption of the ordinance (when it is signed by the Mayor or Council President).

PROPOSED AMENDMENTS TO 3.106, B, 2, d, and H, Type IV Procedure (Legislative).

### **3.106 TYPE IV PROCEDURE (LEGISLATIVE)**

This subsection establishes the procedures to be followed by the City in the consideration of amendments to the text of this Ordinance or the Comprehensive Plan, or to amendments to the Comprehensive Plan Map or Zoning Map which affect a group of properties or a large area of the City. Such actions are legislative land use actions.

A. Initiation: A legislative land use action may be initiated by a majority vote of either the Planning Commission or the City Council.

B. Notice of Hearing.

1. Required hearings. A minimum of two hearings are required for all Type IV applications, except annexations where only one hearing by the City Council is required.

2. Notification requirements. Notice of public hearings for the request shall be given by the City Recorder in the following manner:

a. At least 20 days, but no more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

i. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment.

ii. Any affected governmental agency;

iii. Any person who requests notice in writing;

iv. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

b. At least 10 days before the scheduled Planning Commission public hearing and 10 days before the City Council's final hearing date, notice shall be

published in a newspaper of general circulation in the City.

c. The City Recorder or their designee shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.

d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of the proposed comprehensive plan and development code amendments at least ~~45~~ **35 calendar** days before the first public hearing at which public testimony or new evidence will be received.

e. Notifications for annexation shall follow the provisions of this section, except as required for local government boundary commissions (ORS 199).

Subsections C, D, E, F and G are not shown.

H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all ~~participants of record~~ **parties who testified orally or in writing at the Planning Commission or City Council public hearings**, and the Department of Land Conservation and Development, within ~~5 business~~ **20 calendar** days after the ~~City Council decision is filed with the City Recorder~~ **Ordinance is signed**. ~~The City shall also provide notice to all persons as required by other applicable laws.~~

Subsections I and J are not shown.

## 9. Section 2.210, Historic Buildings and Sites.

EXPLANATION. The city has worked with the Oregon Historic Preservation Office and proposes several procedural amendments to the city's historic preservation program. The amendments are numerous to the extent that the current Section 2.210 is proposed to be replaced entirely with the new language as shown below.

Additional historic changes are part of the historic amendments in other sections, i.e., 3.102, A, 1, e, at #6, p. 6 (bottom), and 3.102, C, new Subsections 7, 8 and 9, at #6, p. 7 (middle).

Additional historic changes are in #10 related to Section 3.105, Type III Procedure (Quasi-Judicial)

### PROPOSED REPLACEMENT SECTION 2.210, HISTORIC BUILDINGS AND SITES.

#### **2.210 Historic Preservation**

##### **2.210.01 Purpose**

Falls City, City Council Hearing, 7/20/17, Legislative Amendments

The City of Falls City recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. The City of Falls City establishes a Historic Preservation Ordinance to identify, recognize, and preserve significant properties related to the community's history; encourage the rehabilitation and ongoing viability of historic buildings and structures; strengthen public support for historic preservation efforts within the community; foster civic pride; and encourage cultural heritage tourism.

### **2.210.02 Applicability**

- A. No provision of this Ordinance shall be construed to prevent the ordinary maintenance of a Landmark when such action does not involve a change in design, materials, or appearance. No provision in this Ordinance shall be construed to prevent the alteration, demolition, or relocation of a Landmark when the Building Official certifies that such action is required for public safety. At his or her discretion, the Building Official may find that under state law and Section 2.210.07.D.4 that a Landmark does not meet current building code but is not dangerous.
- B. Section 2.210 is applicable to all properties listed in National Register of Historic Places and/or listed in the Local Landmark Register that are located within corporate boundaries of the City of Falls City.

### **2.210.03 Definitions**

The following definitions apply to terms used in this Ordinance. Terms not defined have their commonly construed meaning:

Alteration: An addition, removal, or reconfiguration that changes the appearance of a Landmark. Painting, when color is not specifically noted in Landmark's Record of Designation and ordinary maintenance are excluded from this definition.

Building: A house, barn, church, hotel, or similar construction created principally to shelter any form of human activity.

Certificate of Appropriateness (COA): A document issued by the Historic Preservation Officer indicating that the applicant has satisfactorily met the provisions of this Ordinance for the alteration, relocation, or demolition of a Landmark.

Commission: The City of Falls City Historic Landmark Commission.

Demolition: The complete destruction or dismantling of sixty-five (65) percent of, or greater, of the entirety of a Landmark.

District: A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Eligible/Contributing: A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a

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sense of history. These properties strengthen the historic integrity of an existing or potential historic district.

Eligible/Significant: A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district, and are likely individually eligible for listing in the Local Landmark Register.

Exceptional Significance: The quality of historic significance achieved outside the usual norms of age, association, or rarity.

Exterior: Any portion of the outside of a historic resource or any addition thereto.

Interested Person:

- A. Any occupant, owner, agent for the owner or purchaser of real property for which an application for designation of a historic district, historic resource or Certificate of Appropriateness is being made;
- B. Owners of record of property on the most recent property tax assessment roll where such property is located within one hundred feet of the property which is the subject of the notice;
- C. Any person actually aggrieved by the decision; or
- D. A member of a recognized historic preservation-interest group who has requested in writing that they be notified.

Historic Context Statement: An element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.

Historic Integrity: The quality of wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a historic resource, as opposed to its physical condition.

Historic Preservation Officer: The City Manager or his or her designate.

Historic Preservation Plan: An element of the comprehensive plan that contains the local government's goals and policy for historic resource preservation of the processes for creating and amending the program to achieve the goal.

Historic Resource: A building, structure, object, site, or district that is at least fifty (50) years old or is of exceptional significance and potentially meets the age, integrity, and significance criteria for listing in the Local Landmark Register, but may not necessarily be recorded in the Historic Resource Survey.

Historic Resource Survey: The record of buildings, structures, objects, and sites recorded by the City of Falls City used to identify historic resources potentially eligible for listing in the Local Landmark Register.

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Historic Significance: The physical association of a building, structure, site, object, or district with historic events, trends, persons, architecture, method of construction, or that have yielded or may yield information important in prehistory or history.

Landmark: A building, structure, site, object, or district listed in the City of Falls City Local Landmark Register.

Local Landmark Register: The list of historic resources officially recognized by the City of Falls City as important in its history and afforded the protection under this Ordinance.

Locally Significant Historic Resource: A building, structure, object, site or district deemed by a local government to be a significant resource according to the requirements of this division and criteria of the Comprehensive Plan.

National Register of Historic Places: The nation's official list of buildings, structures, sites, objects, and districts important in the nation's history and maintained by the National Park Service in Washington, D.C., and hereinafter referred to as the "National Register." Historic resources listed in the National Register are referred to as "Historic Resources of Statewide Significance" in Oregon Revised Statutes.

National Register Resource: A building, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation act of 1966 (PL 89-665; 16 U.S.C. 470).

Non-Contributing: A building, structure, object, or site originally constructed within the applicable period of significance that does not retain or exhibit sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties do not strengthen the historic integrity of an existing or potential historic district in their current condition.

Not in Period: A building, structure, object, or site that was originally constructed outside the applicable period of significance.

Object: A construction that is largely artistic in nature or is relatively small in scale and simply constructed in comparison to buildings or structures, including a fountain, sculpture, monument, milepost, etc.

Ordinary Maintenance: Activities that do not remove materials or alter qualities that make a historic resource eligible for listing in the Local Landmark Register, including cleaning, painting, when color is not specifically noted in Landmark's Record of Designation, and limited replacement of siding, trim, and window components when such material is beyond repair and where the new piece is of the same size, dimension, material, and finish as that of the original historic material. Excluded from this definition is the replacement of an entire window sash or more that twenty (20) percent of the siding or trim on any one side of a Landmark at any one time within one (1) calendar year.

Owner:

- A. Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or
- B. Means the purchaser under a land sales contract, if there is a recorded land sales contract in force for the property; or

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- C. Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and
- D. Does not include individuals, partnerships, corporation or public agencies holding easement or less than fee interests (including leaseholds) of any nature; or
- E. Means, for locally significant historic resource with multiple owners, including a district, a simple majority of owners defined in A – D.
- F. Means, for Natural Register Resources, the same as defined in 36 CFR 60.3(k)

Period of Significance: The time period, from one to several years or decades, during which a Landmark was associated with an important historic event(s), trend(s), person(s), architecture, or method(s) of construction.

Protect: To require local governments review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.

Record of Designation: The official document created by the Historic Preservation Officer that describes how a Landmark meets the criteria for listing in the Local Landmark Register.

Rehabilitation: The process of returning a Landmark to a state of utility through repair or alteration, which makes possible an efficient use while preserving those portions and features of the Landmark and its site that convey its historic significance.

Relocation: The removal from or moving of a Landmark from its original location noted in the Record of Designation.

SHPO: The Oregon State Historic Preservation Office. Each State has a designated State Historic Preservation Office (SHPO) to help the Federal Government administer provisions of the National Historic Preservation Act. The SHPO is aided by a professional staff and review board.

Significant Historic Resource: A locally significant Historic Resource or a National Register Resource.

Site: The location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building, structure, or object.

Structure: A functional construction made usually for purposes other than creating human shelter, such as an aircraft, bridge, fence, dam, tunnel, etc.

Streetscape: The physical parts and aesthetic qualities of a public right-of-way, including the roadway, gutter, tree lawn, sidewalk, retaining walls, landscaping and building setback.

#### 2.210.04 Severability

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If any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance shall remain in force and effect.

## **2.210.05 Commission Duties**

The Commission shall have the following duties:

- A. Employing the procedures and criteria in Section 2.210.06, the Commission shall identify and evaluate properties in the City of Falls City and maintain a Historic Resource Survey consistent with the standards of the Oregon State Historic Preservation Office, hereinafter referred to as "SHPO."
- B. Employing the procedures and criteria in Section 2.210.07, the Commission shall designate properties to the Local Landmark Register.
- C. Employing the procedures and criteria in Section 2.210.08, the Commission shall review and act upon applications for the alteration, relocation, or demolition of Landmarks.
- D. The Commission shall support the enforcement of all state laws relating to historic preservation.
- E. The Commission shall perform any other functions defined in the City of Falls City Municipal Code definition of the Historic Landmark Commission or by resolution or motion of the City Council.
- F. The Commission may publish and adopt written and graphic guidelines and example materials to clarify the criteria in this Ordinance and to assist applicants in developing complete and viable applications to designate, alter, rehabilitate, relocate, or demolish Landmarks. Documents intended to be used for the regulation of alterations as defined in this Ordinance must be voted on and adopted by the Commission and approved as part of the City of Falls City Zoning and Development Code using the established procedures for amendments.
- G. The Commission may undertake to inform the citizens of, and visitors to the City of Falls City, regarding the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of Landmarks; provide information on state and federal preservation programs; and document Landmarks prior to their alteration, demolition, or relocation and archive that documentation.
- H. For purposes consistent with this Ordinance and subject to the approval the City Council, the Commission may seek, accept, and expend public appropriations; seek, accept, and expend grant and gift funds; cooperate with public and private entities;

assist the owners of Landmarks in securing funding for the preservation of their properties; and report on such activities to the City Council.

- I. The Commission may recommend incentives and code amendments to the City Council to promote historic preservation in the community.
- J. The Commission may comment on local, state, or federal issues, laws, and requests relating to historic preservation.
- K. The Commission may, subject to the approval of the City Council, employ clerical and expert assistance and elect to form ad-hoc committees to carry out its business.
- L. The Commission may adopt and amend by-laws to regulate its internal operations.
- M. Commissioners are required to publicly announce any conflict of interest, as defined by State Law, and describe the nature of the conflict before participating in discussions, public hearings, or taking any action.

**2.210.06 Identification and Evaluation of Historic Resources.**

The Historic Resource Survey lists, describes, and determines the eligibility of historic resources for listing in the Local Landmark Register. Not all properties listed in the Historic Resource Survey are eligible for listing in the Local Landmarks Register. A property need not be first listed in the Historic Resource Survey before being nominated to the Local Landmark Register under Section 2.210.07.

- A. The Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources based on the community's needs and interests.
- B. Before commencing inventory studies or updates, the Commission shall provide public notice describing the inventory, its purposes, and invite public participation.
- C. Surveyed properties shall be identified as Eligible/Significant (ES), Eligible/Contributing (EC), Non-Contributing (NC), or Not in Period (NP). Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the document "Guidelines for Historic Resource Surveys in Oregon, 2010" or most recent guidance for such efforts published by the SHPO and be supplied to the agency within six (6) months of the completion of the study.
- D. The Historic Resource Survey shall be maintained as a public record with the exception of archaeological sites, which is prohibited by State law.
- E. Citizens shall have the opportunity to review and correct information included in the Historic Resource Survey. Any member of the public may place a property in the

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Historic Resource Survey; however, the Commission retains the authority to determine the property's eligibility for listing in the Local Landmark Register.

- F. The Commission may collect further information including, but not limited to, current photographs, architectural descriptions based on on-site observations, or archival documentation for properties already listed in the Local Landmark Register or National Register for the purposes of administering this Ordinance pursuant to the provisions of this Section.

#### **2.210.07 Local Landmark Register.**

The Commission may designate historic resources to the Local Landmark Register as a means of providing recognition of their significance and providing incentives and guidelines for their preservation. The Local Landmark Register is maintained by the Historic Preservation Officer and shall be available to the public.

- A. Historic resources within the corporate boundaries of the City of Falls City and listed in the National Register, including all National Register-listed historic districts in their entirety may be listed in the Local Landmark Register using the procedures outlined in Section C, but need not be documented as outlined in Section B.2 through B.5 of this Section. In such cases, the National Register nomination shall serve as the Record of Designation. As Historic Resources of Statewide Significance, all National Register-listed properties, including individual properties in recognized National Register-listed historic districts are subject to the regulations in Section 2.210.08.E, pursuant to Oregon State Law.
- B. Criteria for designating Historic Resources to the Local Landmark Register. Any building, structure, object, site, or district may be designated to the Local Landmark Register if it meets all the Criteria of Section 2.210.07.A or all of the criteria listed below:
  - 1. The property is located within the corporate boundaries of the City of Falls City.
  - 2. The property is over fifty (50) years of age or of exceptional importance, or in the case of a district, the majority of the properties are over fifty (50) years old or have exceptional significance.
  - 3. The property possesses sufficient historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that may destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which

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significantly detract from or obscure the form and appearance of the historic resource when viewed from the public right-of-way.

4. The property has historic significance as demonstrated by meeting at least one of the following criteria:
  - (a) Association with events that have made a significant contribution to the broad patterns of our history; and/or
  - (b) Association with the lives or persons significant in our past; and/or
  - (c) Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or
  - (d) Have yielded, or may be likely to yield, information important in prehistory or history.
5. The property's legal owner(s) shall provide to the City a written statement acknowledging that that the owner has read the Historic Preservation Ordinance and understands the nomination process and the results of such a designation, and wishes to have their property listed in the Local Landmark Register. Within locally-designated historic districts a boundary may be established, but only those that submit a statement as described above will be listed in the Local Landmark Register. In cases where multiple persons or entities own a single property, a simple majority of the property owners must submit a written statement. This provision does not apply to individual historic resources and historic districts listed in the National Register.

C. Nomination Procedure. Any person, group, including the Commission or government agency may nominate a property for listing in the Local Landmark Register. The nomination procedures are as follows:

1. Designation of a historic resource to the Local Landmark Register is a Type III Procedure (Quasi-Judicial) as set forth in Section 3.102 Summary of Application Types and Review Procedures.
2. The nomination for a historic resource to the Local Landmark Register must include a description of the boundaries of the proposed nominated area and the structures, objects, and sites contained therein, and a statement explaining how the historic resource(s) meet(s) the criteria under B of this Section. The Historic Preservation Officer may establish additional standards for a complete application.

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3. The Historic Preservation Officer shall inform property owners in writing of the nomination process pursuant to local and state law.
4. The Commission may approve, deny, or table the application pending further testimony, or to allow for the petitioner to provide additional information as requested by the Commission. The Commission shall develop written findings to support its decisions.
5. Upon final approval by the Commission, the Historic Preservation Officer shall prepare a Record of Designation that includes the original nomination materials, and any testimony or additional materials considered during the nomination process that establishes the eligibility of the historic resource for listing in the Local Landmark Register.
6. Historic Resources designated as Landmarks shall be noted as such in the Local Landmark Register.
7. A Record of Designation may be amended through the process described in this Section. The Historic Preservation Officer may administratively add additional materials gathered under the provisions of Section 2.210.06 to keep the record current or elaborate on established facts in the Record of Designation. Notice of such an action shall be provided to the Commission at their next regular meeting.

D. Results of listing in Local Landmark Register. Historic resources listed in the Local Landmark Register receive the following benefits:

1. All uses and restrictions established by the underlying zoning, existing conditional use permits, and other applicable design standards shall remain in effect unless changed through due process.
2. Landmarks are protected under the provisions of Section 2.210.08 through 2.210.16.
3. City staff shall consider granting zoning variances and/or conditional use permits in order to encourage the productive use and preservation of Landmarks.
4. The local Building Official shall consider waiving certain code requirements in accordance with the existing state building code.
5. Property owners of Landmarks may seek technical or financial assistance from the Commission in applying for grants or tax incentives for rehabilitating their properties as resources and funds are available.

6. Property owners of Landmarks are eligible to receive City-funded grants and loans to assist with the preservation of their buildings as resources and funds are available.

**2.210.08 Treatment of Historic Resources listed in the Local Landmark Register.**

The Commission shall use the provisions of this Section to preserve the exterior character-defining features of individual Landmarks; the exterior of individual buildings in Landmark historic districts.

A. Activities not subject to the provisions of this Section:

1. Alterations to building interiors when building interiors not specifically noted as historical significant in Record of Designation.
2. Application of exterior paint color when color not specifically noted in Record of Designation.
3. Alterations to landscape features not specifically noted in the Record of Designation.

B. No Landmark or exterior landscape or archaeological element noted as significant in the Record of Designation shall be altered, relocated, or demolished, or a new building or structure constructed within the area defined in the Record of Designation without a Certificate of Appropriateness signed and issued by the Historic Preservation Officer. Certificates of Appropriateness must be presented to the City Planner and Building Official before a building or demolition permit is issued.

1. An application for a Certificate of Appropriateness must include a description of the proposed activity, accompanying maps, photographs, drawings, and other documentation. The Historic Preservation Officer may establish additional standards for a complete application, including defining different criteria for a complete application under provisions C, D, and E of this Section.
2. Upon acceptance of a complete application, the Historic Preservation Officer shall decide within 14 calendar days if the proposed work is subject to provisions C, D, or E of this Section.
3. The Historic Preservation Officer shall prepare a staff report that summarizes the proposed project, notes the criteria specified in this Ordinance under which the application shall be considered, and make a recommendation to the Commission to approve, approve with conditions, or deny the application for a Certificate of Appropriateness. Materials that may be used in the preparation of the staff report include the Record of Designation; and/or National Register nomination; and/or other archival

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photos, maps; and/or other documentary evidence specific to the subject property; and/or observations from on-site inspections from the public-right-of way to document its historic appearance or alteration over time; and/or documents and publications of the National Park Service or Oregon State Historic Preservation Office. Documents that are not available from the City at the time of application for a Certificate of Appropriateness shall be made available to the applicant at least ten (10) calendar days before a public hearing is held or administrative decision is made.

4. The Commission shall review and act upon applications for the alteration, relocation, and demolition of a Landmark. Applications for the alteration of a Landmark may be approved, approved with conditions, or denied. Applications for the relocation or demolition of a Landmark may be approved, approved with conditions, or the action delayed for up to one (1) year. The Commission shall develop written findings to support its decisions. The Historic Preservation Officer shall include any conditions imposed by the Commission in the Certificate of Appropriateness pursuant to this Section.
  5. A Certificate of Appropriateness issued for the alteration of a Landmark shall be effective for a period of two (2) years from the date of its issuance. A Certificate of Appropriateness issued for the relocation or demolition of a historic resource shall be effective for a period of one (1) year.
  6. A Landmark may be altered, relocated, or demolished without a Certificate of Appropriateness if the Building Official attests in writing that the condition of a Landmark poses a clear and immediate hazard to public safety. The comments of the Building Official with sufficient evidence to support his or her conclusions shall be provided to the Historic Preservation Officer within fifteen (15) calendar days of making his or her decision. The Historic Preservation Officer will make these materials available to the Commission at their next regular meeting. The property owner(s) must submit an application for a Certificate of Appropriateness as required under this Ordinance within thirty (30) calendar days of the Building Official submitting his or her written statement to the Historic Preservation Officer.
- C. The Historic Preservation Officer may issue a Certificate of Appropriateness, under a Type I-A Procedure (Ministerial) as set forth in Section 3.102 Summary of Application Types and Review Procedures, for the alteration of a Landmark when the proposed alteration will not significantly change the qualities that merited the listing of the Landmark in the Local Landmark Register. A completed Certificate of Appropriateness must be presented to the City Planner before a permit is issued. The Historic Preservation Officer shall make a list of certificates issued in this manner available to the Commission at each regular meeting. Activities eligible for a Certificate of Appropriateness issued as described in this provision include the following:

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1. Construction of a fence that meets Section 2.201.08, Fences, Walls, and Hedges.
  2. Demolition of an outbuilding noted as sharing a lot with a Landmark and not noted as historically significant in its Record of Designation.
  3. New addition to a Landmark or new construction not visible from the public right-of-way.
- D. A Type III Procedure (Quasi-Judicial) as set forth in Section 3.102 Summary of Application Types and Review Procedures for a Certificate of Appropriateness shall be required for activities not exempted in A.1 through A.3, and C.1 through C.3 of Section 2.210.08.
1. Prior to submitting an application for a permit pursuant to this Section, proponents are encouraged to request a Land Use Pre-Application Conference to review concepts and proposals. The Historic Preservation Officer may assign a staff member to perform these duties or contract with other parties to complete the consultation. The Commission may also form ad-hoc committees for this purpose. Commission members participating in pre-application conferences shall disclose their ex-parte contact at the time of a public hearing on the proposal.
  2. In order to approve an application for the alteration of a Landmark, the Commission must find that the proposal meets the following guidelines as applicable:
    - (a) A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships; and/or
    - (b) The historic integrity of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided; and/or
    - (c) A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken; and/or
    - (d) Changes to a property that have acquired historic significance in their own right shall be retained and preserved; and/or

- (e) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved; and/or
  - (f) Deteriorated historic features shall be repaired rather than replaced. The severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence; and/or
  - (g) Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used; and/or
  - (h) Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken; and/or
  - (i) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment; and/or
  - (j) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
3. In addition to meeting the applicable guidelines in 2(a) through 3(j) of this Section, in order to approve an application for the alteration of a Landmark the Commission must find that the proposal meets the following design standards as applicable:
- (a) Vacant buildings shall be weather- and vandal-proofed in order to minimize further deterioration and the threat to public safety; and/or
  - (b) Rehabilitation work, especially on the exterior and the principal facades shall preserve the existing historic features or replace them if absolutely necessary with features and materials known to have existed on the building through verifiable evidence such as photographs. Alterations to Landmarks shall not be based on speculation, but instead on documentary evidence; and/or

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- (c) New additions shall be subordinate to the original building, meaning lower in height, attached to the rear or set back along the side, smaller in scale, and have less architectural detail; and/or
- (d) Height, width, setback, roof shape, and the overall scale and massing of new buildings within historic districts and on lots with existing Landmarks, or additions to Landmarks shall be compatible with the existing historic building(s) and, in the case of historic districts, the overall streetscape; and/or
- (e) In historic districts and on lots with existing Landmarks, materials on at least the primary façade(s) of new buildings shall be similar in size, shape, color, and texture to the original materials on the facades of surrounding historic buildings; and/or
- (f) Architectural details on new construction (including wood or metal trim, porches, cornices, arches, and window and door features, etc.) shall be complimentary, but shall not replicate historic features on surrounding historic buildings; and/or
- (g) Window and door opening should be similar in size and orientation (vertical to horizontal) to openings on historic buildings and shall take up about the same percentage of the overall façade as those on surrounding historic buildings; and/or
- (h) In historic districts and on lots with existing Landmarks, the relationship of the width to the height of the principal elevations for new buildings and additions to existing Landmarks shall be in scale with the surrounding structures and streetscape. Wider new building can be divided into segments that more closely resemble the façade widths of historic buildings; and/or
- (i) In historic districts and on lots with existing Landmarks, the roof shape of new buildings and additions to existing Landmarks shall be visually compatible with the surrounding structures and streetscape. Unusual roof shapes, materials, and pitches are discouraged; and/or
- (j) Moving Landmarks shall be avoided, especially to create artificial groupings; and/or
- (k) The demolition of Landmarks shall be avoided whenever possible; and/or
- (l) Any applicable design guidelines adopted by the Commission in Section 2.210.05.

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E. A Type III Procedure (Quasi-Judicial) as set forth in Section 3.102 Summary of Application Types and Review Procedures and a Certificate of Appropriateness shall be required to relocate or demolish a Landmark or any property listed in the National Register of Historic Places individually or as part of a historic district.

1. To approve, approve with conditions, or deny an application the Commission shall find that the demolition request meets the following applicable criteria:
  - (a) The applicant has completed a replacement plan for the site including drawings approved by the City Planner. If the property is located within a historic district, plans must be submitted for review by the Commission pursuant to Section 2.210.08.D as it relates to new construction; and
  - (b) The Building Official determines and states in writing that the building may not be safely removed from the site; and
  - (c) The value to the community of the proposed use of the property outweighs the value of retaining Landmark at the original location. Public testimony shall be considered when making this determination.
2. To approve, approve with conditions, or deny an application for the relocation of a Landmark, Commission must find that:
  - (a) The relocated Landmark remains within the corporate boundaries of the City of Falls City.
  - (b) The new site is provides a suitable setting and ensures the building's long term preservation.
  - (c) The applicant has completed a plan for the new site; including drawings approved by the City Planner.
3. In approving or denying an application for the relocation or demolition of a Landmark, the Commission may impose the following conditions:
  - (a) Photographic, video, or drawn recordation of the Landmark in its origin location; and/or
  - (b) In the case of demolition, the Landmark be transported to a new site, and that, to the extent possible, the new location is similar to the original site and that the original setback and orientation of the building is replicated on the new lot; and/or
  - (c) In the cases of properties listed in the National Register, that the applicant attempt to obtain permission to move the Landmark from the

National Park Service in order to retain the property's listing in the National Register and/or assume all responsibility and cost of removing if permission cannot be obtained; and/or

- (d) Other reasonable mitigation measures.
4. At the public hearing of an application to relocate or demolish a Landmark the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a Certificate of Appropriateness for up to one hundred eighty (180) calendar days from the date of the hearing. Not more than sixty (60) and not less than thirty (30) calendar days prior to the expiration of the delay period, the Historic Preservation Officer shall schedule a public hearing pursuant to local and state laws to allow the Commission to consider if there are still reasonable alternatives to explore, and if the group will request in writing that the City Council continue the delay for an additional period of up to one hundred eighty (180) calendar days.
  5. The Commission may not delay the relocation or demolition of a Landmark for more than three-hundred sixty (360) calendar days subject to the provisions of this Section. At the end of the waiting period, the Historic Preservation Officer shall issue a Certificate of Appropriateness for the relocation or demolition of the Landmark.
  6. Upon issuing a Certificate of Appropriateness for the demolition of a Landmark, the Historic Preservation Officer shall post a legal notice in a local newspaper of general circulation announcing the demolition, the criteria under which the demolition was approved, the historic significance of the property, and invite the public to provide alternatives to the demolition for consideration by the Commission.
  7. Relocated Landmarks shall remain listed in the Local Landmark Register unless removed under Section 2.210.09.
  8. Demolished Landmarks shall be removed from the Local Landmark Register using the procedures described in Section 2.210.09.

**2.210.09 Removal of Landmarks from the Local Landmark Register.**

A Type III Procedure (Quasi-Judicial) as set forth in Section 3.102 Summary of Application Types and Review Procedures and a signed Certificate of Appropriateness shall be required for the removal of a Historic Resource from the Local Landmark Register and shall be subject to this section.

- A. Landmarks concurrently listed in the Local Landmark Register and National Register will be considered for removal from the Local Landmark Register only after the

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Landmark is removed from the National Register and the SHPO has provided written evidence of the removal to the Historic Preservation Officer.

- B. Any individual or group, including the Commission acting on its own initiative, may initiate the removal of a Landmark or individual property within a historic district from the Local Landmark Register by submitting a complete application to the Historic Preservation Officer.
- C. The Historic Preservation Officer shall establish standards for a complete application for the removal of a Landmark from the Local Landmark Register. Upon acceptance of a complete application, the Historic Preservation Officer shall schedule a public hearing pursuant to applicable local and state laws.
- D. The City of Falls City shall be required to remove a Landmark from the Local Landmark Register if the designation was imposed on the property by the City of Falls City and the owner at the time of designation:
  - (a) Has retained ownership since the time of the designation, and
  - (b) Can demonstrate that the owner objected to the designation on the public record, or
  - (c) Were not provide an opportunity to object to the designation, and
  - (d) Requests that the City of Falls City remove the Landmark from the Local Landmark Register.
- E. In order to approve an application for the removal of a Landmark from the Local Landmark Register the Commission must find the following:
  - (a) The Landmark has ceased to meet the criteria for listing in the Local Landmark Register because the qualities with caused it to be originally listed have been lost or destroyed; and/or
  - (b) The property owner at the time the property was added to the Local Landmark Register did not provide written permission for such action; and/or
  - (c) Additional information shows that the Landmark no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; and/or
  - (d) The building official declares that the Landmark poses a clear and immediate hazard to the public safety and must be demolished to abate the unsafe condition.

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- F. An application to remove a Landmark from the Local Landmark Register shall not be considered for one (1) year after the date of decision for the denial of an application for the relocation or demolition of the same Landmark under Section 2.210.09.B.
- G. Landmarks accidentally destroyed by flood, fire, or other natural or accidental act or demolished under the provisions of Section 2.210.08 and meeting the definition of “demolished” as defined in this Ordinance may be removed administratively from the Local Landmark Register by the Historic Preservation Officer. Notice of this action and written evidence documenting the demolition of the Landmark shall be provided to the Commission at their next regular meeting. This same documentation shall be provided to the SHPO. If a Landmark is also listed in the National Register, the Commission shall request that the SHPO remove the property from the National Register if not requiring the owner to do so under Section 2.210.08.E.3.
- H. Upon removing a Landmark from the Local Landmark Register, the Historic Preservation Officer shall post a legal notice in a local newspaper of general circulation announcing the removal, the criteria under which the removal was approved, and the historic significance of the property.

**2.210.10 Economic Hardship**

The Commission shall grant a Certificate of Appropriateness for relocation, demolition, or, at the Commission’s discretion, modify or exempt a property from the requirements of Section 2.210.08 if the applicant can demonstrate that complying with the provisions of this Ordinance creates an economic hardship that prevents the profitable use of the subject property.

- A. Economic Hardship may only be considered in a separate hearing after an application for a Certificate of Appropriateness for the alteration, relocation, or demolition of a Landmark has been issued or denied and all pending appeals to the Land Use Board of Appeals, the Land Conservation and Development Commission, and local, state, and federal courts are resolved.
- B. Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:
  - 1. Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Landmark if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.
  - 2. Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Landmark has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.

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C. Property owners seeking a Certificate of Appropriateness for economic hardship must provide sufficient information, as determined by the Historic Preservation Officer, to support the application for the Certificate. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:

1. Willful or negligent acts by the owner; and/or
2. Purchase of the property for substantially more than market value; and/or
3. Failure to perform normal maintenance and repairs; and/or
4. Failure to diligently solicit and retain tenants; and/or
5. Failure to provide normal tenant improvements.

#### **2.210.11 Appeals**

- A. Any interested person may, within fifteen (15) calendar days from the date of a final decision, appeal a decision of the Historic Preservation Officer or the Historic Landmark Commission by filing a written notice of appeal. The filing of such notice shall have the effect of suspending any challenged permits pending final determination. Upon receipt of the notice of appeal, a public hearing shall be set which is at least thirty (30) calendar days from the date of receipt of the notice.
- B. Decisions of the Historic Preservation Officer are appealable to the Commission. Decisions of the Commission are appealable to the City Council. Decisions of City Council are appealable to the Oregon State Land Use Board of Appeals.

#### **2.210.12 Re-submittal of an Application Previously Denied.**

An application for a Certificate of Appropriateness which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least two (2) years from the date the final City action is made denying the application unless there is a substantial change in the facts or a change in City policy which would change the outcome.

#### **2.210.13 Enforcement of the Provisions of this Ordinance**

- A. See Section 1.103 Violations
- B. In addition to Section 1.103 Violations, any violation of any provision of Section 2.210 Historic Preservation this shall result in a restraint order or stop-work order.

#### **2.210.14 Conflicts with Other Laws**

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If the provisions of this Ordinance are found to be in conflict with federal or state laws the federal or state law shall prevail. In cases of conflict with other City ordinances the previously established statute shall take precedence.

#### **2.210.15 Relationship to Other Land Use Reviews**

Projects which require an historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently. Fees for other application shall be established from time to time by City Council Resolution.

#### **2.210.16 Public Projects**

All projects sponsored by the City or other Governmental agencies are subject to the same review as private projects.

#### 10. Section 3.105, Type III Procedure (Quasi-Judicial)

EXPLANATION. The city has worked with the Oregon Historic Preservation Office and proposes several amendments to the city's historic preservation program. Some of the amendments are shown above. The following amendments address the proposed amendments to Section 3.105, Type III Procedure (Quasi-Judicial).

#### PROPOSED AMENDMENTS, SECTION 3.105, TYPE III PROCEDURE (QUASI-JUSICIAL)

#### 3.105 TYPE III PROCEDURE (QUASI-JUDICIAL)

This subsection establishes the procedures to be followed in the consideration of any land use application that affects an individual property or a small group of properties. Such actions are quasi-judicial land use actions.

- A. Initiation: [[No changes proposed.]]
- B. Application requirements. [[No changes proposed.]]
- C. Completeness: [[No changes proposed.]]
- D. Combination of Review Procedures: [[No changes proposed.]]
- E. Application Review: Quasi-judicial applications shall be heard by the Planning Commission/ *or Historic Landmark Commission* at a public hearing conducted in accordance with the provisions of Chapter Three – Application and Review Provisions. Public notice shall be in accordance with the procedures set forth in Section G, below. Appeal of the ~~Planning Commission~~ *hearing body* decision is to the City Council. The decision of the City Council shall be the final land use action on the application.

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F. Review Standards: [[No changes proposed.]]

G. Notice of Hearing.

1. Mailed notice. [[No changes proposed.]]
2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed, posted and published per Subsection 1 above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
  - b. The applicable criteria and standards from the development code that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals (LUBA);
  - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;
  - h. A statement that a copy of the City's staff report and recommendation to the ~~Planning Commission~~ **hearing body** shall be available at no cost at least 7 days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings;
  - j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The Falls City Development Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser."

H. Conduct of the Public Hearing.

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1. [[No changes proposed.]]
2. [[No changes proposed.]]
3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 7 days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the ~~Planning Commission~~ **hearing body** shall reopen the record per subsection 1 of this section;
  - a. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to Section H is subject to the limitations of ORS 227.178 (“120 day rule”), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the City shall allow the applicant at least 7 days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.
4. The record.
  - a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
  - b. The ~~Planning Commission~~ **hearing body** may take official notice of judicially recognizable facts under the applicable law. If the ~~Planning Commission~~ **hearing body** takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
  - c. The review authority shall retain custody of the record until the City issues a final decision.
5. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte contacts (see Section 6 below) as reasonably possible. The public has a countervailing right of free access to public officials. Therefore:
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex-parte contacts (as defined in Section 6 below) concerning the application or appeal. The ~~Planning Commission~~

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*hearing body* member shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

- b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
- d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
- e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

6. Ex-parte communication. [[No changes proposed.]]

7. Presenting and receiving evidence. [[No changes proposed.]]

I. The Decision Process. [[No changes proposed.]]

J. Notice of Decision [[No changes proposed.]]

K. Maximum 120-Day Review Limit (Timing Requirements): [[No changes proposed.]]

L. Notice of Decision: [[No changes proposed.]]

M. Final Decision and Effective Date. [[No changes proposed.]]

**End of proposed amendments.**

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## V. FINDINGS OF FACT

The Development Code, Section 3.106, Type IV Procedure (Legislative), Subsection E, Decision Making Consideration, requires the City Council's decision to be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines;
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Ordinance [the Development Code] that implement the Comprehensive Plan.

The following findings conclude the proposed amendments are consistent with Statewide Planning Goals 1, Citizen Involvement, 2, Land Use Planning, 5, Historic Resources, and the remaining Statewide Planning Goals do not apply. The findings also conclude there were no Federal or State statutes or regulations implicated in the amendments, there is no applicable intergovernmental agreement and there are no applicable Comprehensive Plan Policies.

### Statewide Planning Goals

Goal 1, Citizen Involvement: The duly noticed City Council hearing is July 20, 2017 to receive comments from the public. The hearing is consistent with the Development Code's procedures for legislative amendments to the Development Code. Staff finds Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged Development Code for processing legislative amendments to the Development Code. Goal 2 supports clear and thorough local procedures. The proposed amendments are based on State Statutes, Oregon Administrative Rules and Legislative Bills. Staff finds Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands: Goals 3 and 4 are not applicable. The proposal does not involve or affect farm or forest lands.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources. The proposed historic amendments were developed in coordination with the Oregon Historic Preservation Office to ensure compliance with Goal 5 processes and Oregon Administrative Rule 660-023 requirements. The proposed amendments to the Falls City Development Code do not include a list of historic resources, but instead are procedural and regulatory in nature. Staff finds Goal 5 is met.

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Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreation: Goal 8 is not applicable. The proposal does not address Goal 8 recreational needs.

Goal 9, Economic Development: Goal 9 is not applicable. The proposal does not address Goal 9 issues.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues.

The proposed amendments to the Falls City Development Code are consistent with Statewide Goals 1 and 2 and the remaining Goals are not applicable because the amendments do not affect issues addressed by Goals 3 – 14.

#### Falls City Comprehensive Plan Policies

The Falls City Comprehensive Plan Policies were carefully considered and none were found to be applicable to the proposed procedural amendments.

#### **VI. CITY COUNCIL ACTION**

The City Council has the following options:

- A. Pass a motion adopting the findings in the staff report and approving LA 2017-01 amending the Falls City Development Code.
- B. Pass a motion adopting the findings in the staff report and approving LA 2017-01 amending the Falls City Development Code with changes (and state the changes).
- C. Pass a motion to deny LA 2017-01, and state the reasons for the denial.

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D. Pass a motion to continue the hearing to a date/time certain.

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