



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



September 25, 2008

TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Steven Oulman, Mid-Willamette Valley Regional Representative

SUBJECT: **Agenda Item 7, October 16-17, 2008, LCDC Meeting**

**CITY OF SALEM
PERIODIC REVIEW WORK TASKS 3 and 5
RESOLUTION OF APPEAL**

I. RECOMMENDATION

The director recommends that the Commission accept an agreement reached with the City of Salem to resolve remand of Salem's periodic review tasks and the City's appeal of that action. The director recommends that the Commission enter an order directing Salem to make specific amendments to its comprehensive plan by a specific date; when the amendments are adopted by the City they will be final and no further review by the Commission is required.

II. AGENDA ITEM SUMMARY

The City of Salem periodic review tasks related to land use and transportation planning were remanded by the director on February 16, 2006. The city then appealed the remand. Pursuant to ORS 197.633, the Commission extended the time for taking action on the appeal while the parties pursued mediation. Although the department and the city discussed the remand/appeal with the help of a dispute resolution professional, formal mediation was inconclusive. This spring, the department initiated new discussions with the City to resolve the appeal, to conclude Salem's periodic review, and to rebuild relations with the City to enable progress on other issues of mutual interest.

Salem began periodic review in the mid-1980s. The City has used the periodic review process to successfully update its comprehensive plan to address issues such as planning for industrial lands and multi-family housing. Tasks related to land use and transportation planning were added to the City's work program in 1998. The City and the department worked for several years on a large planning project aimed at developing a regionally-coordinated plan to integrate land use and transportation investments. By 2003, momentum for that effort slowed, and by 2005, the plan and the periodic review process were perceived as a serious impediment to Salem's community development efforts.

After a series of City Council work sessions, the City concluded that its comprehensive plan was adequate to address requirements of state law, and that the existing plan sufficiently achieved state policy objectives for reducing reliance on the automobile through land use and transportation planning. The City then submitted its completed periodic review work tasks and the department's review resulted in a remand order in February 2006. That order was appealed by the City.

Over the last four months, department staff met frequently with City staff to discuss the periodic review impasse and issues such as a code update and planning for economic development that the City wishes to advance. The director also met with Salem's Mayor and conveyed the department's desire to provide positive assistance in the community's planning and development efforts. As a result of these discussions, the department and the city arrived at a four-part agreement that will mutually advance land use and transportation planning in the region:

1. Amend the Salem Area Comprehensive Plan to include the definition of "activity nodes and corridors" and include findings describing how these nodes and corridors comprise a strategy to integrate land use and transportation planning and increase transportation choices.
2. Amend the Salem Area Comprehensive Plan to include a map depicting Salem Urban Area Activity Nodes.
3. Develop a Memorandum of Understanding with Salem-Keizer Transit that would establish a coordination process for land use, transportation, and transit planning.
4. Amend the Salem Area Comprehensive Plan to include standards and benchmarks for measuring progress towards implementing a strategy to integrate land use and transportation planning and increase transportation choices described in 1, above.

The department believes that the City's commitment to undertake these four actions and the department's commitment to terminate the City's long pending periodic review achieve compliance with applicable state requirements, and set a foundation for future work to benefit the Salem-Keizer region.

III. COMMISSION OPTIONS

The Commission may:

1. Accept the agreement proposed by the director and enter an order pursuant to OAR 660-025-0160(6)(c) directing the city to undertake specific actions by a specific date;
or
2. Reject the agreement and proceed with an appeal hearing to be convened at the Commission's December 4-5 meeting in Tillamook.

IV. DEPARTMENT RECOMMENDATION AND DRAFT MOTION

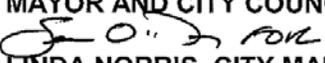
The department recommends that the Commission support the director's recommendation and enter an order directing Salem to make specific amendments to its comprehensive plan by a specific date. When the amendments are adopted by the City, those amendments will be final and no further review by the Commission is required.

Proposed Motion: I move that the Commission accept an agreement with the City of Salem described in the staff report to conclude review of periodic review tasks 3 and 5, and that the city complete four additional tasks to amend the Salem Area Comprehensive Plan and develop a memorandum of understanding with Salem-Keizer Transit by June 30, 2009. When the amendments are adopted by the City, those amendments will be final and no further review by the Commission is required

Alternative Motion: I move that the Commission not accept an agreement with the City of Salem to conclude periodic review tasks 3 and 5 and that the Commission shall proceed with hearing the appeal filed by the City in response to the director's remand order 001691.

Attachments: A. September 8, 2008 Salem City Council staff report
B. Draft Order

FOR COUNCIL MEETING OF: September 8, 2008
AGENDA ITEM NO.: 4.3 (i)

TO: MAYOR AND CITY COUNCIL
THROUGH:  LINDA NORRIS, CITY MANAGER
FROM: VICKIE HARDIN WOODS, DIRECTOR 
COMMUNITY DEVELOPMENT DEPARTMENT
SUBJECT: PERIODIC REVIEW

ISSUE:

Should City Council agree in concept to a proposal by the State Department of Land Conservation and Development (DLCD) to complete periodic review of the Salem Area Comprehensive Plan (SACP) and direct staff to initiate amendments to the SACP?

RECOMMENDATION:

Staff recommends that the City Council agree in concept to a proposal by the State Department of Land Conservation and Development (DLCD) to complete periodic review of the Salem Area Comprehensive Plan (SACP) and direct staff to initiate amendments to the SACP.

BACKGROUND:

The City of Salem has been attempting to complete periodic review of the SACP for many years. The last ten years have been focused on the State Wide Planning Goal 12: Transportation. On August 25, 2005 the City submitted a proposal that the City believed represented a completion of the final work products of the periodic review order. The proposal included the City Council Resolution No. 2005-51. (Attachment A) On February 16, 2006 the DLCD remanded the work products for failure to comply with the Transportation Planning Rule (TPR). A mediation effort was attempted beginning in February, 2007 but did not lead to a settlement.

Earlier this year, representatives of DLCD approached the staff and suggested that it is time to conclude the periodic review process and move forward to address other issues of mutual interest and regional concern. In that spirit, the DLCD proposes a settlement agreement consisting of four points:

1. Amend the SACP to include the definition of "activity nodes and corridors" and include findings describing how these nodes and corridors comprise a strategy to integrate land use and transportation planning and increase transportation choices.

2. Amend the SACP to include a map that would be entitled "Salem Urban Area Activity Nodes and Corridors" which will look similar to the map adopted as part of Resolution 2005-51, and may include the Capitol Mall, the Civic Center, Willamette University and the Salem Hospital.
3. Develop a Memorandum of Understanding with the Salem Transit District that would establish a coordination process for land use, transportation, and transit planning.
4. Amend the SACP to include standards and benchmarks for measuring progress towards implementing a strategy described in 1, above. These will be substantially similar to those included in Resolution 2005-51.

Staff anticipates that DLCD will withdraw the remand and accept the agreed upon amendments when submitted by the City. This will complete the periodic review process.



Glenn W. Gross, Urban Planning Administrator

Attachment: A. Resolution 2005-51

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

**IN THE MATTER OF) APPROVAL ORDER
THE CITY OF SALEM PERIODIC REVIEW)
WORK TASKS 3 and 5) 08 – WKKTASK - 001758**

This matter came before the Land Conservation and Development Commission (Commission) on October 16, 2008 as an appeal by the City of Salem of the Director's Order No. 001691 remanding periodic review tasks 3 and 5.

Background

On February 16, 2006, the Director issued Order No. 001691 remanding periodic review tasks 3 and 5 for additional work by the city to comply with the statewide planning goals.

On March 6, 2006 the City of Salem appealed the Director's decision to the Commission.

At its August 9-11, 2006 meeting, the Commission continued the appeal hearing pursuant to ORS 197.633(5)(a) to allow time for mediation. The department and the City used the services of dispute resolution professional and explored opportunities for a mediated solution to the appeal. Formal mediation was unsuccessful.

In May 2008, the department and the City renewed discussion to reach agreement on review of periodic review tasks 3 and 5, compliance with the statewide planning goals, and termination of Salem's periodic review. The department and the City have agreed to actions the city would undertake to resolve issues associated with tasks 3 and 5 and to conclude Salem's periodic review.

Periodic Review Tasks 3 and 5

Periodic review task 3 and 5 are a related set of actions intended to address requirements of Goal 12 and the Transportation Planning Rule (TPR). The tasks entail development of a plan to integrate land use and transportation planning consistent with the TPR and to develop implementation mechanisms for such a plan.

Commission Review

The director presented a staff report. The report recommends a set of actions agreed to by the department and the City to address outstanding issues related to the director's remand of tasks 3 and 5 and the City's appeal.

There are no parties other than the City of Salem and the department. There were no objections to the director's staff report.

The City of Salem submitted a letter into the record indicating its acceptance of an agreement that calls for it to undertake additional amendments to its comprehensive plan and for the department to approve periodic review tasks 3 and 5 and terminate the City's periodic review.

The Commission exercised its discretion to consider the City's letter as new evidence or information pursuant to OAR 660-025-0160(5).

Conclusion

Based on consideration of the record as a whole, the Commission concludes that specific plan revisions are to be completed by the City of Salem.

THEREFORE, IT IS ORDERED THAT:

Pursuant to OAR 660-025-0160(6)(c), the Commission orders that four specific actions, listed below, are to be completed by the City of Salem by June 30, 2009. The actions are final when adopted by the City of Salem, and require no further review by the department or the Commission. Upon completion of the all of the four actions listed below, the periodic review for the City of Salem shall be terminated.

1. The City of Salem shall amend the Salem Area Comprehensive Plan to include the definition of "activity nodes and corridors" and include findings describing how these nodes and corridors comprise a strategy to integrate land use and transportation planning and increase transportation choices.
2. The City of Salem shall amend the Salem Area Comprehensive Plan to include a map depicting Salem Urban Area Activity Nodes and Corridors which will look substantially similar to Exhibit "A."
3. The City of Salem shall develop a Memorandum of Understanding with Salem-Keizer Transit that would establish a coordination process for land use, transportation, and transit planning.
4. The City of Salem shall amend the Salem Area Comprehensive Plan to include standards and benchmarks for measuring progress towards implementing a strategy to integrate land use and transportation planning and increase transportation choices described in 1, above. The standards and benchmarks to be adopted will be substantially similar to Exhibit "B."

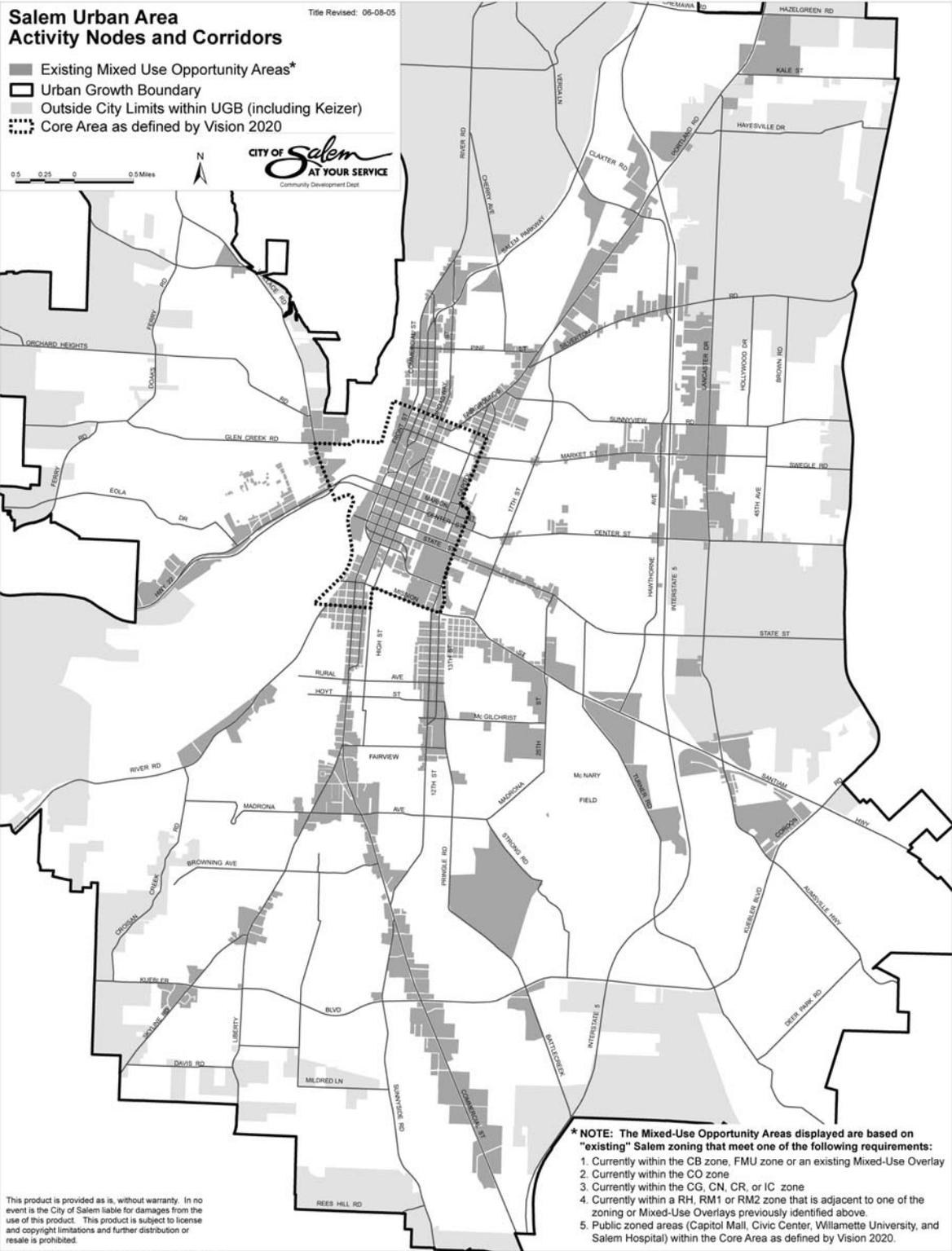
DATED THIS ____ DAY OF _____, 2008

FOR THE COMMISSION:

Richard Whitman, Director
Department of Land
Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all exhibits are available for review at the department's office at 635 Capitol Street NE, Suite 150, Salem.



**Integrated Land Use and Transportation
Alternative Standard and Benchmarks
Proposed Measures**

Measure	Description	Measurement	Recent Years	Interim Benchmarks					Benchmark 2030
				2005	2010	2015	2020	2025	
1a	New Dwelling units (d.u.) within 1/4 mile of transit stops	Ratio of new d.u. within 1/4 mile walking distance of transit stops (with frequency of service of 30 minutes) to all new d.u. in the city	26.9% ('98-'04)	30%	34%	38%	43%	48%	
1b	New Dwelling units (d.u.) within 1/4 mile of transit stops	Ratio of new d.u. within 1/4 mile walking distance of transit stops (with frequency of service of 15 minutes in peak hour) to all new d.u. in the city	2.7% ('98-'04)	3.5%	4.5%	6.5%	8.5%	10.5%	
2	Jobs in Activity Nodes and Corridors	Ratio of total jobs in Activity Nodes and Corridors to all jobs in the city, excluding industrial zones.	50.17% (2000)	52%	53%	54%	55%	56%	
3	New d.u. in Activity Nodes and Corridors	Ratio of new d.u. in Activity Nodes and Corridors to all new d.u. in the city	14.95% ('98-'04)	17%	19%	21%	23%	25%	
4	Critical bicycle, pedestrian and transit improvements constructed	Number of projects constructed by the public and private sectors	15/year ('98-'03)	75 (15/year)	75 (15/year)	75 (15/year)	75 (15/year)	75 (380 total)	
5	Growth in Mid-Valley rideshare database	Number of people in database using alternative modes	695 (2003)	749 (7% increase)	801 (7% increase)	881 (10% increase)	969 (10% increase)	1066 (10% increase)	

The above benchmarks have been accepted by the City of Salem, but are contingent on the continued cooperation of all the regional partners, especially the Salem Area Transit District, and including City of Keizer, Marion and Polk Counties, MWVCOG, and the Salem Keizer School District.