



Comprehensive Plan Map and Zoning Map Amendments Staff Report and Recommendation

Community Development Department, Planning Division

Report Date	May 24, 2019
Hearing Date	June 3, 2019
Land Use Request	Comprehensive Plan Map and Zoning Map Amendment to re-designate and rezone one parcel from Neighborhood Commercial to Town Center Transition
File Number	311-19-000005-PLNG
Property Location	1836 Cedar Street
Legal Description	Washington County tax lot 1S306BA09600
Owner	Joseph Tretter, 1836 Cedar Street Forest Grove, Oregon 97116
Comprehensive Plan Designation	Neighborhood Commercial
Zoning Map Designation	Neighborhood Commercial
Historic District	Clark Historic District
Applicable Decision Considerations, Standards and Criteria	<u>Comprehensive Plan Amendment</u> <ul style="list-style-type: none">▪ Oregon Statewide Land Use Planning Goals▪ Forest Grove Comprehensive Plan Policies▪ Metro Regional Framework Plan▪ Metro Urban Growth Management Functional Plan <u>Zoning Map Amendment</u> <ul style="list-style-type: none">▪ Development Code §17.2.770 <i>Map Amendment Criteria</i>
Reviewing Staff	James Reitz (AICP), Senior Planner
Recommendation	The proposed Comprehensive Plan Map and Zoning Map amendments meet the requirements of the applicable decision considerations, standards and criteria. Staff recommends that the Planning Commission forward the application to the City Council with a positive recommendation.

I. LAND USE HISTORY

The home on this site was constructed c. 1943. It is located in the Clark National Register Historic District, created in 2002. Because the home has not been significantly remodeled, it is considered a Contributing resource to the district. New construction must comply with both the base zone standards and the historic district design standards of Development Code §17.5.220, or the historic design guidelines of Design Guidelines Handbook Section V as determined by the Historic Landmarks Board.

The applicant purchased the property in 2008. Prior to 2009, the property had been in the CC Community Commercial zoning district. All surrounding properties were also in the CC zoning district.

When the current Development Code was adopted in 2009, this parcel – and this parcel only – was rezoned to Neighborhood Commercial (CN). City records are unclear as to the purpose of this change. Several properties in the vicinity were considered for rezoning to “Neighborhood Services” (a designation that does not exist), but this was the only parcel in this area whose zoning designation was changed. As adoption of the Development Code and the related map amendments were legislative in nature, notice to specific property owners may not have occurred. In 2016 the surrounding properties that had previously been zoned Community Commercial were rezoned to Town Center Transition.

The applicant wishes to construct additional improvements on the property which would be located closer to the side and rear property lines than the Commercial Neighborhood zoning would permit, but which could be allowed under the TCT designation.

II. DESCRIPTION OF PROPOSAL

The proposal is an amendment to the Comprehensive Plan Map to re-designate one parcel from Commercial Neighborhood (CN) to Town Center Transition (TCT), and an amendment to the Zoning Map to re-designate the same parcel from Commercial Neighborhood to Town Center Transition. Maps of the proposals are attached in Exhibit A.

III. SITE EXAMINATION

The subject area totals 0.21 acres (9,200 square feet). It is developed with a single-family home. A detached, single-car garage was recently demolished. The garage took access exclusively from Cedar Street. The site also has a drive approach to 19th Avenue.

Existing Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONING DISTRICT	LAND USE
Site	Commercial Neighborhood	Commercial Neighborhood	Single-Family Home
North	Town Center Transition	Town Center Transition	Church
South	Town Center Transition	Town Center Transition	Single-Family Home
East	Town Center Transition	Town Center Transition	Duplex
West	Town Center Transition	Town Center Transition	Apartments

IV. PROCEDURAL REQUIREMENTS

Comprehensive Plan Map Amendment Process: “Plan amendments may be initiated by the following parties: property owner of record or authorized agent of the property owner of record; contract purchaser, City Council, Planning Commission, City Manager, or Community Development Director.” (Forest Grove Comprehensive Plan - Volume 1 p. 27)

Because it is unclear as to why this site was designated Neighborhood Commercial in 2009, this amendment was initiated by the Community Development Director.

The Planning Commission will consider the merits of the proposal and prepare a recommendation to the City Council.

Zoning Map Amendment Process: Development Code §17.2.760 *Procedure* authorizes the Planning Commission to make a recommendation to the City Council after reviewing the application pursuant to a Type 3 procedure.

Comprehensive Plan Amendment and Zoning Map Amendment approval criteria follow in Section V below.

DLCD and Metro Notification and Review: Notice of the proposed comprehensive plan and zoning map amendments was provided to the Department of Land Conservation and Development (DLCD) and Metro on April 10, 2019 pursuant to ORS 197.610, OAR Chapter 660 – Division 18, and Metro Code §3.07.820 (Functional Plan Title 8). Neither agency has registered any comments.

Public Notice: Public notice for this application was mailed to property owners and residents within 300 feet of the site on May 13, 2019; and published in the *News Times* on May 29, 2019, as required by Development Code §17.1.610.

As of the writing of this report, one written comment has been received from the public.

V. REQUIRED APPROVALS AND FINDINGS

The following decision considerations apply to the proposed Comprehensive Plan Map amendment –

- Applicable Oregon Statewide Land Use Planning Goals;
- Applicable Comprehensive Plan policies;
- Metro Regional Framework Plan; and
- Metro Urban Growth Management Functional Plan.

The following criteria apply to the proposed Zoning Map amendment (DC §17.2.770) –

- A. The zone change is consistent with the Comprehensive Plan Map. When the Comprehensive Plan has more than one implementing zone as shown on the Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

- B. The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.
- C. The site is suitable for the proposed zone and there is a lack of appropriately designated alternative sites within the vicinity. The size of the vicinity will be determined on a case-by-case basis since the impacts of a proposed zone and its potential uses vary. The factors to be considered in determining suitability are parcel size and location.
- D. The zone change is consistent with the adopted Transportation System Plan. Development allowed by the zone change will not substantially impact the functional classification or operation of transportation facilities, or reduce the level of service of transportation facilities below the minimum acceptable level identified in the Transportation System Plan. To ensure proper review and mitigation, a traffic impact study may be required for the proposed zone change if it may impact transportation facilities.
- E. Public facilities and services for water supply, sanitary waste disposal, storm water disposal, and police and fire protection are capable of supporting the uses allowed by the zone. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands.
- F. The establishment of a zone district is not subject to the meeting of conditions.

The applicable decision considerations and approval criteria are described more fully below. Findings are also provided below.

Oregon Statewide Land Use Planning Goals

Goal 2 – Land Use: Goal 2 establishes guidelines for major revisions and minor changes to the Comprehensive Plan. Goal 2 stipulates that a minor change should be based on information that will serve as the factual basis to support the change. The public need and justification for the change should be established.

Finding for Goal 2: The proposed Comprehensive Plan amendment affects only one parcel with an area of 0.21 acres. Re-designating the property from Commercial Neighborhood to Town Center Transition will not have a significant effect and is therefore considered to be a minor amendment.

Goal 10 - Housing: Goal 10 specifies that each city and county must plan for and accommodate needed housing types and to plan and zone enough buildable land to meet those needs.

Finding for Goal 10: The City's Economic Opportunity Analysis shows a need for 3,900 housing units over the next 20 years, based on the Baseline Growth Scenario of 2% per year. Re-designating the parcel from Neighborhood Commercial to Town Center Transition will provide an opportunity to meet the identified housing need. If zoned TCT, the parcel could support 3 to 8 dwelling units (at 16.22 to 40.00 DUA), versus the 1 unit permitted under the NC designation (at 4.35 DUA).

Designating the property as Town Center Transition would also help the City achieve a minimum development residential density allocation for new construction of 8 units per acre that the City must meet overall under the Metropolitan Housing Rule (OAR 660-0007-0035).

Metro Regional Framework Plan

The Metro Regional Framework Plan establishes a land use concept for the Portland region. Under the Metro Charter and state law, cities and counties within Metro's boundaries are required to comply and be consistent with the Regional Framework Plan.

The plan contains policies for growth management and land use planning for matters of metropolitan concern. It establishes a hierarchy of mixed-use, pedestrian friendly centers that are well connected by high capacity transit and corridors. It establishes Regional Centers, Town Centers, Corridors, Transit Station Communities, neighborhoods, and Industrial and Employment areas.

Finding: If approved, the proposed Comprehensive Plan Map and Zoning Map amendments will result in the re-designation of 0.21 acres of land from Commercial Neighborhood to Town Center Transition. The subject area is surrounded on all four sides by lands designated as Town Center Transition. The amendments would support the Metro Regional Framework Plan by promoting additional housing opportunities in the Town Center and along the Pacific Avenue / 19th Avenue corridor.

Finding: The Metropolitan Housing Rule (OAR §660-007-0035(2)) *Minimum Density Allocation for New Construction* requires that Forest Grove provide for an overall density of 8 or more units per net acre. The maximum by-right allowed density in the Town Center Transition zoning district is 40 units per net acre. Increasing the allowed housing density on this site would be consistent with the Metropolitan Housing Rule and support Forest Grove achieving an overall density of eight or more units per net acre.

Forest Grove Comprehensive Plan Policies

Because this proposal would amend the Comprehensive Plan map to re-designate the parcel from one commercial designation (Commercial Neighborhood) to a different commercial designation (Town Center Transition), only one Comprehensive Plan policy appears to apply to this request.

Economic Development Goal 5 – Promote Retail Activities

Policy 5.3 Promote opportunities for mixed use development, including retail, near major transportation intersections (nodes) within the city including the Forest Grove Town Center.

Finding: The intersection of 19th Avenue and Cedar Street could be considered a major transportation intersection because it is the intersection of an Arterial Street and a Neighborhood Route. Furthermore, it is also the location of a bus stop serving the Town Center. The parcel would have greater opportunity to develop with a mixture of uses because the Town Center Transition zoning district would allow for a wider variety of permitted uses, including group living, commercial lodging, and indoor entertainment.

Zoning Map Amendments Review Criteria (DC §17.2.770)

1. The zone change is consistent with the Comprehensive Plan Map. When the Comprehensive Plan has more than one implementing zone as shown on the Correspondence Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Finding: If the parcel is re-designated to Town Center Transition, then the Town Center Transition zone would be appropriate, especially as all the surrounding parcels are also zoned TCT.

2. The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director.

Finding: The proposed amendment is consistent with Forest Grove Comprehensive Plan Economic Development Policy 5.3 which states "Promote opportunities for mixed-use development, including retail, near major transportation intersections (nodes) within the city including the Forest Grove Town Center." The finding pertaining to consistency with this policy is provided above.

3. The zone change is consistent with the adopted Transportation System Plan. Development allowed by the zone change will not substantially impact the functional classification or operation of transportation facilities, or reduce the level of service of transportation facilities below the minimum acceptable level identified in the Transportation System Plan. To ensure proper review and mitigation, a traffic impact study may be required for the proposed zone change if it may impact transportation facilities.

Finding: The parcel totals only 0.21 acres in area. The zone change is consistent with the adopted Transportation System Plan because the parcel is small and the development allowed by the proposed Town Center Transition zone would not be significantly different from the development permitted under the current Neighborhood Commercial designation. Traffic generated under either zoning district designation would not be expected to significantly increase traffic volumes assumed in the TSP for this area.

4. Public facilities and services for water supply, sanitary waste disposal, storm water disposal, and police and fire protection are capable of supporting the uses allowed by the zone. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands.

Finding: The subject parcel is located within a developed area of the city and is served by the full array of City services. The proposed amendment would not be anticipated to create any greater demand for public facilities and other public services than that which would be demanded under the existing designation.

5. The establishment of a zone district is not subject to the meeting of conditions.

Finding: No conditions of approval are proposed.

VI. ALTERNATIVES

The Planning Commission has the following alternatives:

1. Recommend approval of the Comprehensive Plan Map and Zoning Map amendments as proposed; or
2. Recommend approval with modifications; or
3. Recommend denial; or
4. Continue deliberations to a date certain.

VII. SUMMARY AND RECOMMENDATION

The proposed Comprehensive Plan Map and Zoning Map amendments meet the requirements of the applicable decision considerations, standards and criteria as described above. Therefore, staff recommends that the Planning Commission forward the application to the City Council with a positive recommendation.

VIII. LIST OF EXHIBITS

The following attachments are part of the staff report and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

Exhibit A PowerPoint Slides

Exhibit B Correspondence Received

EXHIBIT A

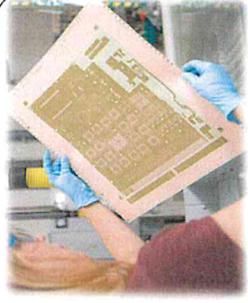
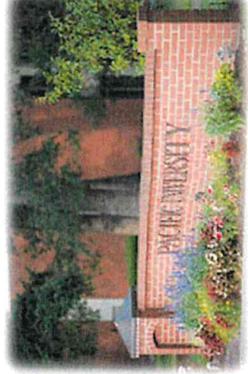
PowerPoint

Of

Proposed Comprehensive Plan Map

And

Zoning Map Amendments



Planning Commission Meeting

June 3, 2019

1836 CEDAR STREET COMPREHENSIVE PLAN MAP AND ZONING MAP AMENDMENTS

James Reitz (AICP), Senior Planner

A place where families and businesses thrive.



Aerial Photo of Site and Area

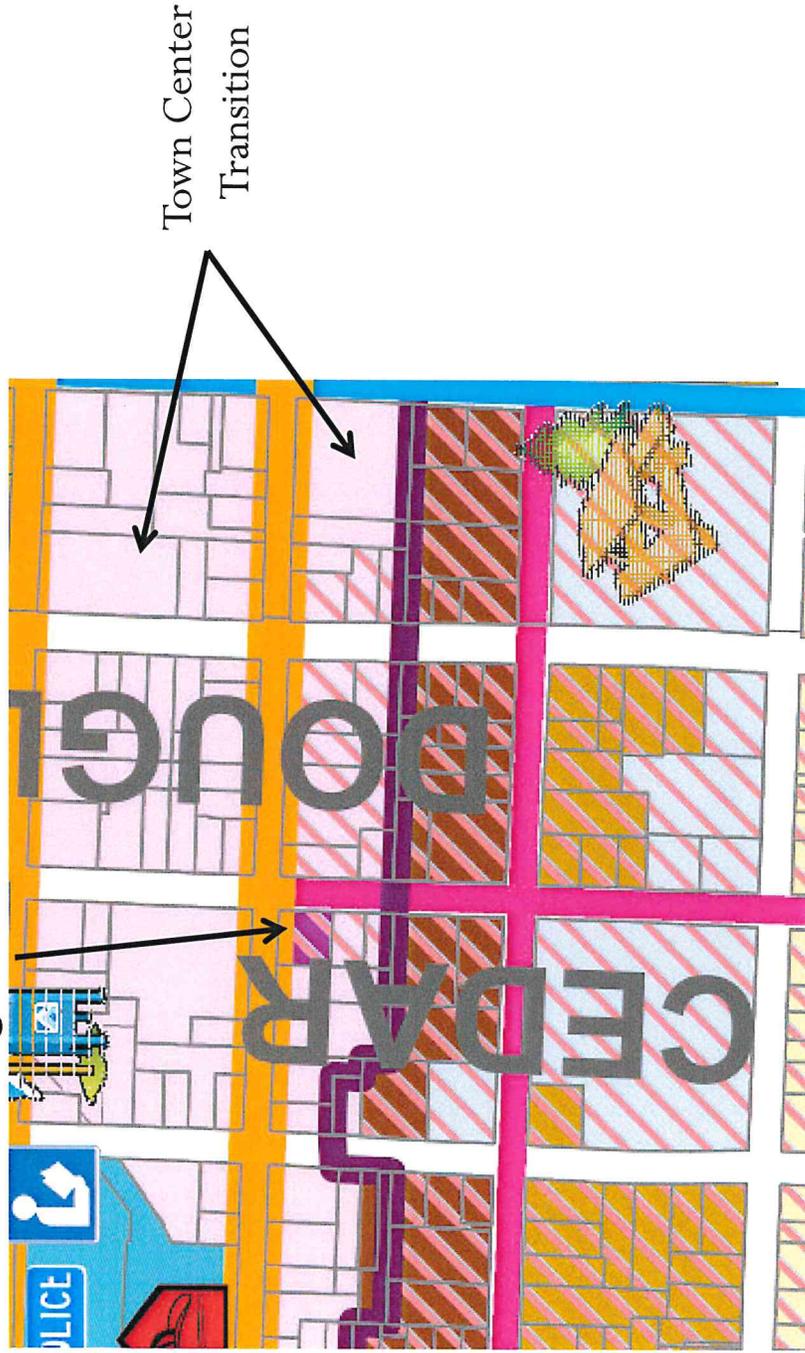


A place where families and businesses thrive.

Comprehensive Plan Map

SITE – Commercial

Neighborhood



Town Center
Transition

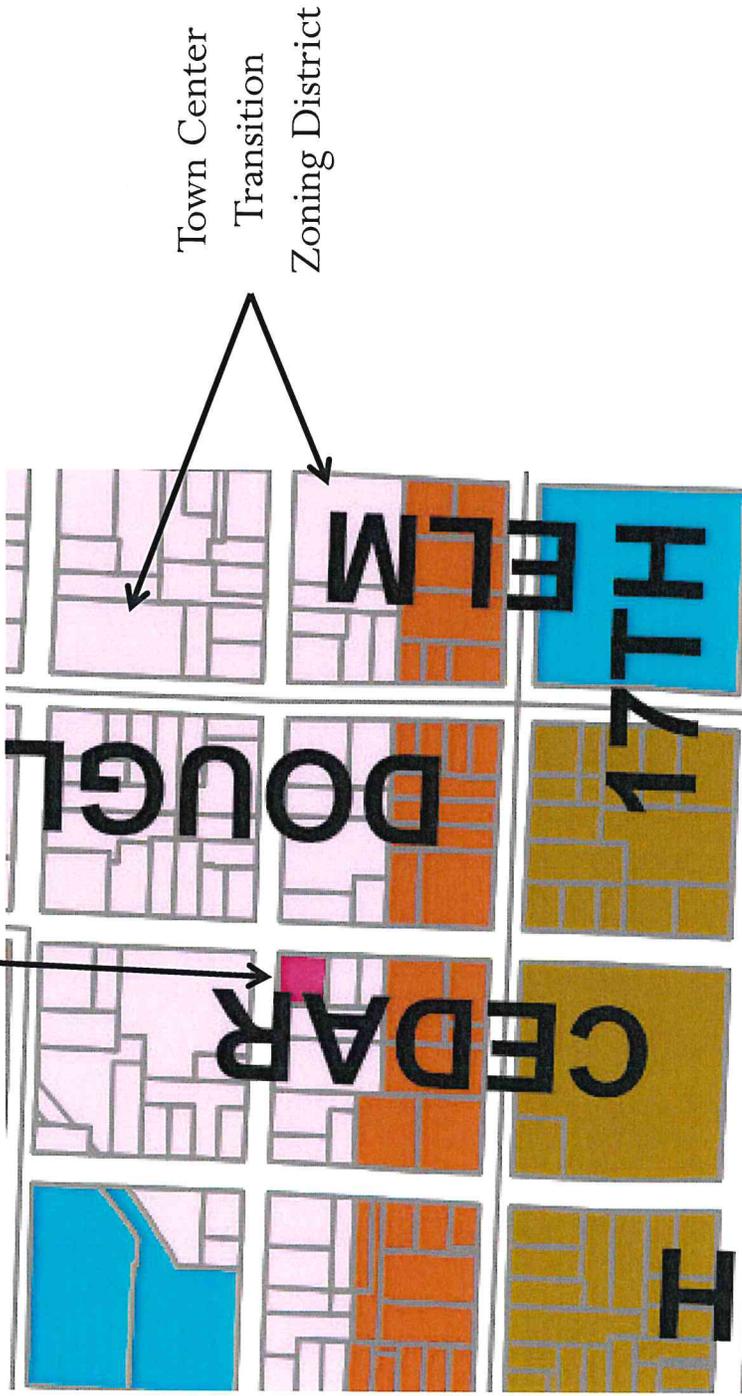
Cross-Hatching = Clark Historic District

A place where families and businesses thrive.

Zoning Map

SITE – Commercial Neighborhood

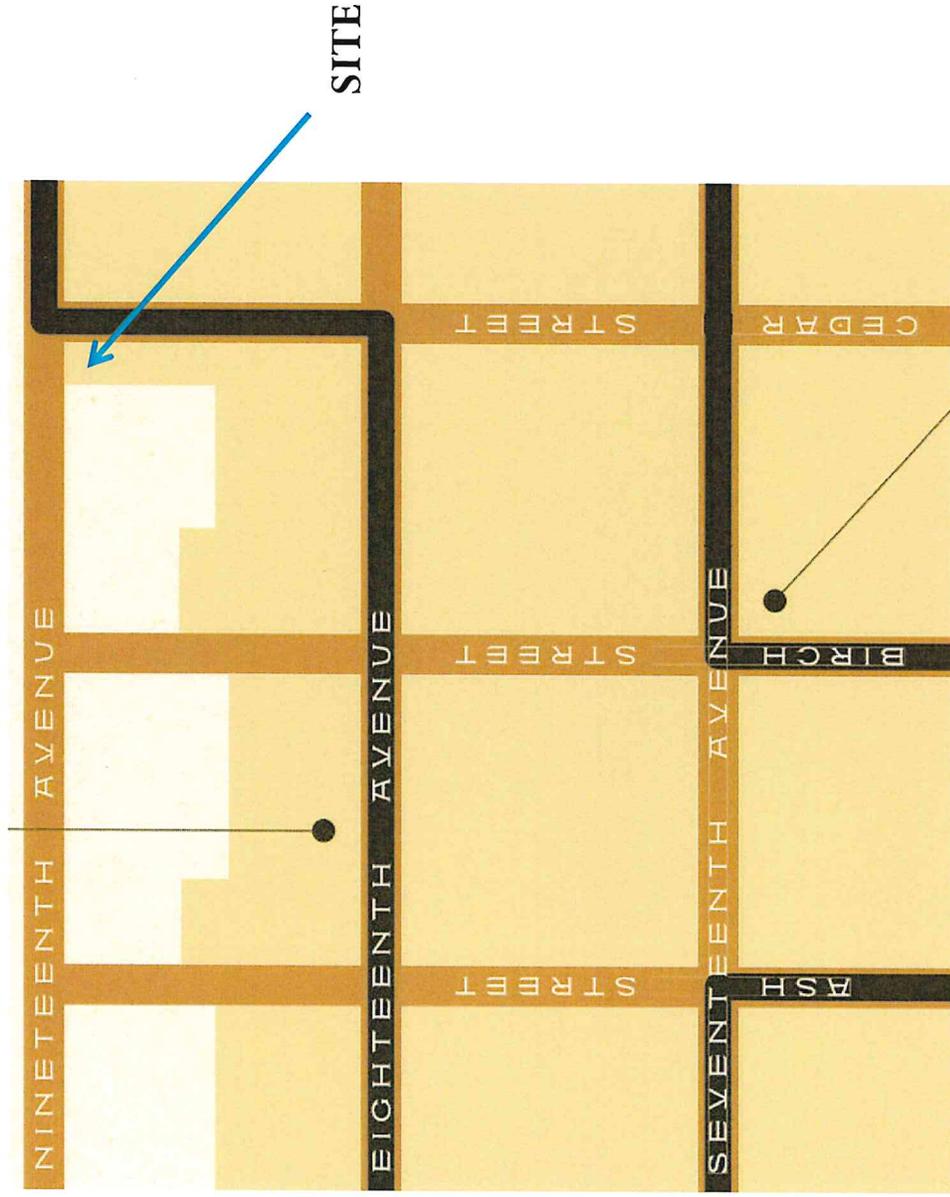
Zoning District



A place where families and businesses thrive.

Clark Historic District

(Shaded Area)



A place where families and businesses thrive.

Summary and Recommendation

- The proposed Comprehensive Plan Map and Zoning Map amendments meet the requirements of the applicable decision considerations, standards and criteria.
- Therefore, staff recommends that the Planning Commission forward the application to the City Council with a positive recommendation.

EXHIBIT B

Correspondence

Consider Rejection Town Center Transition proposal - file# 311-19-000005-PLNG

My name is Joel White and I have lived at 1828 Cedar Street for the past twelve years, and neighbor to 1836 Cedar Street. I am unable to attend the hearing on Monday, June 3rd, 2019 at 7:00 PM, and am using this letter to voice my concerns.

TCT definition states that a mix of retail, office, light industrial and residential uses are allowed in the TCT zone.

If the owner is converting his lot into a garage for a construction business or similar business involving working on, moving and storing heavy (commercial) vehicles, I do not recommend the proposal concerning 1836 Cedar Street to re-designate this address to a Town Center Transition for the following reasons:

1. Noise pollution - revving of engines

This has been a problem in the past (I called Forest Grove police to deal with the matter during August, 2018) as the owner was revving engines on his commercial and recreational vehicles that surpassed acceptable decibel levels. One concern if the city allows the owner's lot to be re-designated as a Town Center Transition, then there will certainly be excessive noise from vehicles and heavy equipment.

Forest Grove noise code states that exhausts without a muffler and revving engines are not permissible:

Exhausts. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device.

Revvng engines. Operating a motor vehicle engine above idling speed off the public right-of-way so as to create excessive or unnecessary sounds that exceed(s) the maximum permissible sound levels set forth in § 91.034.

2. Physical pollution - carbon monoxide exhaust, oil and gas and/or hydraulic fluid waste causing smell and soil contamination

Since I am a neighbor to 1836 Cedar Street (also the townhouse/duplex units located at 2218 19th Ave - located behind the property), we will certainly be affected by excessive exhaust from commercial vehicles, possibly contamination of the soil from oil, gas and other waste. This would be a violation of our rights to simply enjoy our property free from these hazards.

3. Traffic and parking problems

There are two access points to 1836 Cedar Street, from 19th Ave and from Cedar Street. There is parking along 19th Ave although there is a bus stop at the corner of 19th/Cedar, which is an issue for people trying to walk along the sidewalk of 19th and possible endangerment as heavy vehicles are moving in/out of the owner's property

with more than the usual frequency. Another option is Cedar Street, but there is limited parking as only the west side of the street is available for legal parking. If customers were to need parking, or the owner needs extra parking for commercial or for his several recreational vehicles, there is no prevention in place for the owner to simply use the two or three blocks of available parking and create headaches for other residents who may want family and friends to visit. Additionally, my driveway (1828 Cedar Street) is adjoining to the 1836 Cedar Street driveway, and may pose as a problem with my access being blocked by illegal parking either in the street or simply a customer or employee using my driveway believing it belonged to 1836 Cedar Street.

4. No fence between properties - a fence may be a requirement for commercial use of the property

Currently there is a thirty feet opening between 1836 and 1828 Cedar Street backyards due to the owner recently demolishing a detached garage that acted as a barrier between our properties. He had also poured cement and began other work that covered most of his backyard area, what appears to be the foundation of a large structure. I had mailed my concern to Forest Grove planning on April 19th, 2009 and received a reply on the 24th and 25th.

James Reitz responded:

Joel, we are aware of the situation. A building permit has not been issued. The neighbor acknowledged (in writing) that he was proceeding at his own risk. There should be no further activity until/unless the proper permits are obtained. Please keep us informed if you observe any activity in the meantime.

The City does not require fencing at this scale; for subdivisions, apartment complexes, commercial or industrial projects, maybe, depending on each project's circumstances. But on individual single-family lots, no.

It does not appear that a demolition permit was issued. But the City also has no authority to prohibit demolition or attach conditions unrelated to the actual demolition. Meaning, it's not a land use decision, it is simply a building permit.

I am surprised to find that the owner of 1836 Cedar Street hasn't already been shut down by Forest Grove due to blatantly not acquiring the permits, and would hope that a fence or wall will be required between our properties at some point. Currently I am unable to enjoy the privacy in my backyard due to no fault of my own; and especially if 1836 Cedar Street is allowed to have commercial vehicles going in and out of the property, I will not have much peace and quiet. The townhouses/duplexes at 2218 19th Ave will also bear the brunt of activity from 1836 Cedar Street as there is a cyclone fence but no real sound protection between properties.

5. Poor character - owner has history of judgements against him

As previously mentioned, the owner acknowledged (in writing) that he was proceeding at his own risk without any permits, which means that he has little or no regard for following rules, and doesn't care about the consequences of his actions.

According to court records within the past several years, the owner at 1836 Cedar Street has two contempt charges and various small claims against both he and his wife Patricia Tretter aka Patricia Yvonne Madden:

Feb. 12, 2018 - Offense - Contempt of Court/Remedial - Case Number 18CN00672, Offense Code 33.055 - Destruction of motor vehicles or motor vehicle facilities

Jan. 22, 2016 - Offense - Contempt of Court/Remedial - Case Number 16CN03590, Offense Code 33.055 - Destruction of motor vehicles or motor vehicle facilities

Apr. 14, 2014 - Charges Filed - Small Claims Contract - Case Number C142745SC, Fines \$49,836

Sep. 30, 2013 - Charges Filed - Small Claims Contract - Case Number C135915SC, Fines \$35,858

There are more small claims judgements between the two of them that go back to Aug. 29, 2006, Jan. 29, 2007 and Nov. 26, 2008.

I list these charges to bring to light that the owner of 1836 Cedar Street (Joseph Glen Tretter aka Joey Tretter) is not a stand-out citizen (appears to have more issues with his wife as the two aforementioned contempt judgements were titled Patricia Yvonne Tretter vs Joseph Glen Tretter and Patricia Y Madden vs Joseph Glen Tretter) where I am deeply concerned that his business will fail, they will file bankruptcy (which they have previously filed Chapter 7 in 2005 and again in 2011) and then the lot will be sold off for pennies on the dollar, looking like a ridiculous home/warehouse/garage-looking hybrid structure, and possibly will lower my property value.

Please reject Town Center Transition proposal - file# 311-19-000005-PLNG and allow the residents to have some peace of mind without the Tretter nuisance.

Joel White
1828 Cedar Street
Forest Grove, OR