

City of Falls City  
City Council Special Session Meeting Minutes  
Land Use Public Hearings  
July 20, 2017 6:00 PM  
Meeting Location: 320 N Main Street, Falls City, Oregon 97344

**Council Present:** Mayor Terry Ungricht, Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn

**Staff Present:** Renata Wakeley, City Planner and Program Director, Mid-Willamette Valley Council of Governments, Domenica Protheroe, City Clerk, and JoHanna Birr, City Clerk

Mayor Ungricht called the meeting to order at 6:00 pm.

**1) Roll Call**

Clerk Protheroe took roll call. Lori Jean Sickles arrived at 6:13 pm. Lori Jean Sickles left the room from 7:17 to 7:19 PM. Jennifer Drill left the room from 7:10 to 7:13 PM.

**2) Pledge of Allegiance**

Mayor Ungricht led the pledge.

**3) Motion to adopt the entire Agenda**

A motion was made by Councilor D. Sickles and seconded by Councilor Flynn to adopt the entire agenda. Motion carried 5-0-0. Ayes: Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn.

Clerk Protheroe distributed the following replacement pages for the meeting packet:

- a. Meeting Packet Replacement Pages summary (Exhibit A)
- b. Public Hearing Script – Replaces packet pages 1-9 (Exhibit B)
- c. Staff Report ZC 2017-01 – Replaces packet pages 13-16 (Exhibit C)
- d. Staff Report CPMA/ZC 17-01 – Replaces packet pages 55-62A (Exhibit D)
- e. Ordinance 545-2017 – Replaces packet pages 11-12 (Exhibit E)
- f. Ordinance 546-2017 – Replaces packet pages 36-37 (Exhibit F)
- g. Ordinance 547-2017 – Replaces packet pages 53-54 (Exhibit G)

Mayor Ungricht read aloud the script for Quasi-Judicial and Legislative Land Use Public Hearings:

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

The first (1st) application ZC 17-01 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 (2nd) 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 (PAI) to Residential (R) on a portion of lot to remove split zone with no change of use for 223 S. Main Street.

The third (3rd) 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 certain Legislative Text 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 in accordance with Falls City Zoning and Development Code 3.106 and state 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) quasi-judicial land use applications and in the dual role of Planning Commission and Council for the legislative action. Is there a motion for the Council to act in place of the Planning Commission?

A motion was made by Councilor D. Sickles and seconded by Councilor Lauder that the City Council of the City of Falls City act in place of the Planning Commission to process land use matters. Motion carried 5-0-0. Ayes: Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn.

Mayor Ungricht continued reading aloud the public hearing script:

Now we will proceed with the three (3) Quasi-Judicial 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 hearings, I will introduce the applicable substantive criteria upon which each case will be decided. Our City Planner Renata Wakeley 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. If you have any written testimony or other evidence to submit, please give that to staff so it can be entered into the record. When public testimony has been concluded I will close the public hearing and open it up for council discussion and deliberation.

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

Mayor Ungricht asked if there any questions among the Council about the process. Council had no questions.

Mayor Ungricht continued to read aloud the public hearing script:

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) quasi-judicial land use public hearings tonight.

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 or have other information about a proposal gathered outside of this hearing. Also, Councilors may only participate if they can do so without un-due bias either for or against an application.

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

Councilor Meier disclosed he was the property owner of 212 N Main Street ZC 17-01, and head of the corporation that sold 223 S Main Street CPMA/ZC 17-02. City Planner Wakeley stated application ZC 17-01 was merely trying to correct a clerical error in zoning to comply with the Comprehensive Plan. She stated it was Councilor Meier choice if he wanted to abstain from the discussion and vote; she did not object his participation and the public would be given an opportunity to object. Councilor Meier clarified that he was

not the owner of 223 S Main Street. Councilor Meier decided not abstain from the discussion or the vote for applications ZC 17-01 and CPMA/ZC 17-02.

Mayor Ungricht asked if there any challenges from the audience as to conflicts of interest, ex-parte contacts, or bias related to any member of the Council. There was none.

Mayor Ungricht and City Planner Wakeley asked if any councilor wished to disclose any ex-parte communications regarding ZC 17-01, CPMA/ZC 17-02, or CPMA/ZC 17-01. There was none.

**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, and 216 N Main Street**

Mayor Ungricht read aloud the required statements for 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)

Mayor Ungricht called upon City Planner Renata Wakeley to present the staff report for the first (1st) application.

City Planner Wakeley complimented staff on the submission of very complete applications resulting in fewer COG staff hours to process each application.

City Planner Wakeley stated that the Comprehensive Plan Map correctly identifies the subject properties as Commercial Residential and the approval of this zone change will bring the Zoning Map into compliance with the Comprehensive Plan Map.

City Planner Wakeley stated that the Staff Report was amended to include Oregon State Planning Goal 12-Transportation at the recommendation of Falls City legal counsel. All zone change requests are required to address impacts to traffic. City Planner Wakeley stated that two of the three subject properties are already developed and the application did not propose a change of use or increased development. The third subject property is undeveloped and when the lot is developed, the development will be required to comply with the Zoning and Development Code. Therefore, an increase in traffic is unlikely but is possible. She stated that someone could argue if a Commercial Residential zoned property is changed to Public Assembly/Institutional (the reverse) could generate more traffic.

City Planner Wakeley stated that Public Works staff had reviewed all applications and had no comments or conditions.

City Planner Wakeley reviewed the exhibits, approval criteria, staff findings, and recommendations for conditions of approval. Staff found all applicable criteria have been met. She reviewed the conditions of approval.

Councilor Flynn asked if the subject properties are actual zoned Public Assembly/Institutional (PAI). Mayor Ungricht stated that the subject properties are actually zoned Public Assembly/Institutional on the Zoning Map. City Planner Wakeley stated that the Comprehensive Plan Map correctly reflects the subject properties as Commercial Residential. Clerk Protheroe reported that staff determines the zone of a property using the zoning map.

Councilor Drill asked if there is any loss or gain. If an existing structure were destroyed by fire, needed major repair or the owner wanted an addition, the owner would be required to take extra steps requiring additional time and expense for a variance for non-conforming use because residential structures are not a permitted use in the PAI zone and are considered a non-compliant use for the zone. The owner of the vacant lot would be required to apply for and pay for a zone change before submitting a site plan for a residential structure or business development because the PAI zone does not offer conditional uses.

City Planner Renata Wakeley noted that the zone change might trigger a change in the tax rolls but she could not confirm. She stated that PAI zone is often tax exempt, but the City needs to make sure a property is taxed on the actual use. Clerk Protheroe referred to the Assessor Summary Report that reflected a value for the residential structures and use, while also reflecting the PAI zone. The City will notify the County Assessor of all approved zone changes.

Councilor Drill asked if the change of zone would affect their water and sewer rates. Clerk Protheroe stated city utility rates would not change; the City bills the developed properties at the residential rate.

Councilor Lauder asked why the subject properties were zoned PAI. Clerk Protheroe reported that the City recognized a clerical error on the zoning map that mistakenly zoned the vacant lot at 85 Boundary Street, 212 N Main Street, and 216 N Main Street as Public Assembly/Institutional. City Planner Wakeley confirmed that a church was zoned Commercial Residential and a church was a permitted use in the CR zone. Councilor Meier recalled seeing a map with an arrow pointed to the church that indicated the PAI Zone; he thought this was the likely source of the mistake.

Mayor Ungricht opened the Public Hearing for application # ZC 17-01 at 6:29 pm.

Mayor Ungricht provided instructions for public comments and invited comments as follows:

- 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.

Hearing no public comments Mayor Ungricht closed the Public Hearing for application # ZC 17-01 at 6:30 PM.

Mayor Ungricht asked if there was a request to keep the hearing open. Hearing no request Mayor Ungricht stated it was time to consider a motion by Council.

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

A motion was made by Councilor Flynn and seconded by Councilor D. Sickles 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. Motion carried 7-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn, Terry Ungricht

**6) Public Hearing: Comprehensive Plan Map Amendment (CPMA) to change destination 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**

Mayor Ungricht read aloud the 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)

Mayor Ungricht called upon our City Planner Renata Wakeley to present the staff report for the application.

City Planner Wakeley acknowledged that it was uncommon and a bit confusing to have three hearings in one night, and all zone changes, but the City is trying to see some efficiency.

City Planner Wakeley reviewed the application. The Application requests a Comprehensive Plan Map Change and a Zone Change to remove split zoning that reflected prior church ownership and use. Spit zoning is rare. The property has spit zoning of both Residential and Public Assembly/Institutional. The church sold the subject property for to a private party. The zoning change is important to reflect the current use.

City Planner Wakeley summarized the staff report, approval criteria for the Zone change, and the five additional criteria for the Comprehensive Plan Map change, staff findings and recommendations for conditions of approval. Public Works has reviewed the application and had not comments or conditions. Staff found all applicable criteria have been met. The staff reported listed one recommended condition of approval.

Mayor Ungricht opened the Public Hearing for application #CPMA/ZC 17-02 at 6:45 pm.

Mayor Ungricht provided instructions for public comments and invited comments as follows:

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

Mayor Ungricht stated that the applicant has already presented their case.

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.

Hearing no comments from the public Mayor Ungricht closed the Public Hearing for application # CPMA/ZC 17-02 at 6:46 PM.

Councilor Meier stated that the split zoning reflected the parsonage and a 20-foot strip of land was used by the church.

Councilor Flynn asked if this change would align with the plat system. City Planner Wakeley confirmed it would.

Mayor Ungricht asked if there was a request to keep the record open. No request.

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

A motion was made by Councilor D. Sickles and seconded by Councilor Lauder 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. Motion carried 7-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn, Terry Ungricht

**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)**

Mayor Ungricht read aloud the 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)

Mayor called upon City Planner Renata Wakeley to present the staff report for the second (3rd) application.

City Planner Wakeley reviewed the application. She thought this was a great project and congratulated the City for the award of grant funds for the acquisition of the property. This application seeks to change the zone and the Comprehensive Plan designation from Residential to Public Open Space, which is a condition of the acquisition grant. She stated that the criteria are the same as the prior application: five zoning change criteria and five comprehensive plan criteria. She reported earlier in the meeting that the City Council is tasked with determining the decision on the application even though the City is the applicant and owns the property.

City Planner Wakeley asked Council if they would like her to review any of the criteria. She stated that staff found that applicable criteria have been met and there was one recommended condition of approval. Even though the property is publically owned, future development shall comply with policy and procedures including the Zoning and Development Code. This would include installing equipment, parking area, or any other development.

Councilor Drill asked if this change would affect the insurance rate because the property has been identified with natural hazards. Mayor Ungricht stated the insurance rate would be affected if the City develops the land.

Councilor Drill asked if the City would be required to pay property taxes and Mayor Ungricht replied that the City does not pay property taxes. Mayor Ungricht clarified that the City would pay property taxes if there were income (e.g., if the property was leased).

Mayor Ungricht opened the Public Hearing for application #CPMA/ZC 17-01 at 6:55 pm.

Mayor Ungricht provided instructions for public comments and invited comments as follows:

All persons speaking before the City Council must state their name and address for the record.  
I invite the Applicant to present their case – Mayor Ungricht stated that the case has been made.  
I invite those in support of the application to speak

Janelle Anzalone of Storybook Farm in Polk County, and Chair of the Park and Recreation Committee stated Yea!

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.

Hearing no other comments from the public Mayor Ungricht the Public Hearing for application # CPMA/ZC 17-01 at 6:55 PM

Mayor Ungricht asked if there was a request to keep the record open. No request.

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

A motion was made by Councilor Lauder and seconded by Councilor Flynn 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. Motion carried 7-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn, Terry Ungricht

**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**

Mayor Ungricht read aloud the required statements for LA 17-01:

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.

Mayor Ungricht asked if any member of City Council wished to declare an actual or a potential conflict of interest in this matter. There was none.

Mayor Ungricht called on City Planner Renata Wakeley to present the staff report for the Legislative Amendment.

City Planner Wakeley reported the first proposed text amendment pertained to the Lot Line Adjustment process. She reported that she heard public comments relating to the complexity and cost of a lot line adjustment during a prior City of Falls City land use meeting. The current Zoning and Development Code treats Lot Line Adjustments applications similar to a subdivision application. Staff is proposing to amend the code to simplify the process in order to remove some of the barriers. County and State Law processes will not be changed. Text changes listed in **bold** and ~~strikeout~~ fonts for clarity.

City Planner Wakeley reported the second text amendment would add processes for the Historic Landmark Commission for a Certificate of Appropriateness and would add new criteria and replace old criteria. Clerk Protheroe added that the proposed change would be a complete replacement of Section 2.210 based on the Oregon State Historic Preservation Office. She reported that the Historic Landmark Commission would like to become more active and seek National Landmark designations for select properties. The new code section provided clarity and provided the Historic Landmark Commissioners instructions on how to serve as a Quasi-Judicial board. The proposed changes would eliminate confusion by replacing definitions with those compliant with state law. Clerk Protheroe reported that the current code did not provide staff or Commissions with clear definitions of terms that caused confusion about whether or not the Historic Landmark Commission had jurisdiction for our Inventory of Historic Homes. The Commission did not have



jurisdiction because the Inventory of Historic Homes were not included in Comprehensive Code nor had the City secured signatures of approval from individual property owners.

Mayor Ungricht asked if the City Council had the final authority to allow properties to be added to the National Register of Historic Places or the Local Landmark Register. Clerk Protheroe replied only if the City owns the subject property. The Historic Preservation Officer would be required to obtain approval in writing from property owners before the properties could be considered for either registry. Clerk Protheroe added that only the City Council has the authority to amend the Comprehensive Code because that is a legislative amendment. Clerk Protheroe confirmed that the Jail could only be considered for the National Register of Historic Places with approval of City Council and by signature of the Mayor or City Manager. City Planner Wakeley added that the City Council would hear appeals for Historic Landmark Commission decisions. Clerk Protheroe confirmed that the Oregon State Preservation Office helped the City with this update and the Historic Landmark Commission reviewed and approved proposed changes and the Commission had reviewed simple test cases for new processes.

City Planner Wakeley informed Council that an Ordinance would be presented at the September City Council if Council approved the Legislative Amendments.

Mayor Ungricht asked what would happen if City Council did not adopt the Ordinance. City Planner Wakeley reported that Council would need to approve the legislative amendment, followed by the approval of the Ordinance, before this change became law. If the Ordinance was not adopted this change would not become law. She clarified that the City Council does not have to amend their code.

City Planner Wakeley summarized proposed text changes. Jim Jacks, Senior City Planner for Mid-Willamette Council of Governments prepared the text change for Property Line Adjustments. Staff along with the Historic Landmark Commission and the State Historic Preservation Office collaborated on the replacement text for Historic Landmarks.

City Planner Wakeley directed Council to page 128 of the packet. She reviewed the decision making criteria and staff findings. For a legislative amendment, the City makes a decision based on four criteria: Statewide planning goals, comments from any applicable state or federal agency regarding applicable statutes or regulations, any intergovernmental agreements and any applicable comprehensive plan policies or provision. Department of Land Conservation and Development was notified of proposed text amendments, Council of Governments had conversations with the Polk County Assessors Office and Clerks Office because they record lot/property line adjustments. Public Notice was provided. Measure 37 notification was not provided because it was determined that no property would be negatively affected by the proposed text changes that adopt procedures for Historic Landmarks and ease procedures for property line adjustments.

Mayor Ungricht opened the Public Hearing for Legislative Amendment to the Falls City Zoning and Development Ordinance # LA 17-01 at 7:13 PM.

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

I invite those in support of the proposed amendments to speak

I invite those opposed to the proposed amendments to speak

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

I invite public agencies to comment.

Does staff wish to respond to any testimony presented?

Hearing no comments from the public Mayor Ungricht closed the Public Hearing for the Legislative Amendment LA 17-01 at 7:14 PM.

Mayor Ungricht asked if there was a request to keep the record open. No request.

Mayor Ungricht asked if Council would like to deliberate or ask staff questions on this matter.

Councilor Flynn asked for clarity about platted lots, tax lots, and historic properties. City Planner Wakeley reported that there are two amendments. One amendment would simplify the removal of platted lot lines within subdivisions. Mayor Ungricht stated that the second amendment is for the Historic Landmarks Commission process. Councilor Flynn reported he had heard concerns from the public related to the definition of the plat lines versus the tax lot lines. Mayor Ungricht reported that when someone submits a building permit for a building that spans two buildable platted lots they are required to consolidate the platted lots. The zoning code requires all development, including septic systems, to be contained on one-platted lots. It has nothing to do with tax lots. Clerk Protheroe shared something to help understand the difference between a platted lot and a tax lot. A Tax Lot is an administrative convenience to combine platted lots owned by one party for the property tax rolls; tax lots are not a recorded deed on the property whereas platted lots are recorded at the County. If someone has twenty adjoining platted lots, they could request combining all lots under one tax lot. Mayor Ungricht added that under this scenario, the owner of the twenty lots could build on each platted lot if the individual lot conformed to the Zoning Code.

City Planner Wakeley confirmed that the proposed changes did not affect the processing of subdivision applications.

Councilor Drill asked if this would affect property line disputes. Mayor Ungricht replied it would not.

Councilor Flynn asked if someone wanted to replace a septic field in the northwest corner of their property on a platted lot that differs from the platted lot of the residential structure, would he be required to file for a property line adjustment to remove the lot line [consolidate the lots]. Mayor Ungricht stated they would not need to file a property line adjustment in this case but they would need to apply for a property line adjustment if they planned to replace or add to the residents, or build an accessory structure. Mayor Ungricht clarified if the person intended to use the existing septic for a replacement building they would need to file a property line adjustment to consolidate lots. Councilor Flynn stated he was confused by other parts of the code that allowed livestock on property of a certain size. Mayor Ungricht stated that the nuisance code had nothing to do with the development code.

City Planner Wakeley cited a recent example: A property owner wanted to build an accessory structure. They had two legal platted lots of record. The applicant proposed building an accessory structure on one of the legal lots of record, but their primary residence was on the other legal lot of record. The Falls City Zoning and Development Code does not allow an accessory structure to be free standing on its own lot of record, this common in most zoning code. If the City had allowed them to build the accessory structure on the legal lot of record that was separate from their residents, they could have turned around and sold the lot with the accessory structure two weeks later. This would have created a nonconforming structure - a shed or garage on a lot of record without a primary residents. Outside of taxation interest, the City is preserving new developments that are compliant with the Zoning Code and not creating future noncompliant structures.

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

A motion was made by Councilor Drill and seconded by Councilor Meier 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 #LA17-01. Motion Carried: 6-0-0. Ayes: Lori Jean Sickles, Jennifer Drill,

Before moving to the first reading of the Ordinances, City Planner Wakeley informed Council that the State Senate adopted SB1051 which mandated cities with populations over 2,500 allow Accessory Dwelling Units (ADUs) in any zone that allows single-family dwellings. Council of Governments will read the lengthy senate bill to determine impacts on smaller cities, such as Falls City, and will issue a memo with their findings. She stated this is example of the State Legislator telling cities how to do their development code and they did so under the Affordable Housing Cap.

The Council and Clerk Protheroe thanked City Planner Wakeley for her service to the City, after which she left the meeting.

**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**

Mayor Ungricht read the Ordinance by Title only and summarized the Ordinance.

A motion was made by Councilor D. Sickles and seconded by Councilor L. Sickles that 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. Motion Carried: 6-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn

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

Mayor Ungricht read the Ordinance by Title only and summarized the Ordinance.

A motion was made by Councilor Lauder and seconded by Councilor Meier that 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 Maps, Related to Application File No. CPMA/ZC 17-02. Motion Carried: 6-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn

**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**

Mayor Ungricht read the Ordinance by Title only and summarized the Ordinance.

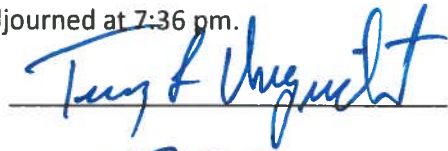
A motion was made by Councilor Flynn and seconded by Councilor Lauder that the City Council of the City of Falls City read the Ordinance 547-2017 for the first time by title only "Ordinance No 547-2017 An Ordinance Amending the City of Falls City Zoning and Comprehensive Plan Map, Related to Application File No. CPMA/ZC 17-01. Motion Carried: 6-0-0. Ayes: Lori Jean Sickles, Jennifer Drill, Tony Meier, Cliff Lauder, Dennis Sickles, Charlie Flynn

**15) First Reading of Ordinance 548-2017 An Ordinance adoption of legislative text amendment to the Falls City Zoning and Development Ordinance Section 3.201.01 B, 1.202.02, 3.2.08, 3.102, 3.103, 3.106, and replacing section 2.210 in its entirety**

This item was tabled until the next regular Council meeting August 10, 2017 in order to incorporate changes from the City Attorney.

Mayor Ungricht thanked Clerk Protheroe who was point person on the changes that he felt would help the city.

The meeting adjourned at 7:36 pm.

A handwritten signature in blue ink, appearing to read "Terry Ungricht", written over a horizontal line.

Mayor Terry Ungricht

Attested:

A handwritten signature in blue ink, appearing to read "Domenica Protheroe", written over a horizontal line.

City Clerk Domenica Protheroe

*Exhibit A*

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**MEETING PACKET REPLACEMENT PAGES**

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**DATE:** 07/20/2017

Public Hearing Script: Replaces packet pages 1-9

Staff Report ZC 2017-01: Replace packet pages 13-16

Staff Report CPMA/ZC 17-01: Replace packet pages 55-62 A

Ordinance 545-2017: Replace packet pages 11-12

Ordinance 546-2017: Replace packet pages 36-37

Ordinance 547-2017: Replace packet pages 53-54

Ordinance 548-2017 Table until next Regular City Council Meeting Pages 92-129

Exhibit B

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

The first (1<sup>st</sup>) application ZC 17-01 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 certain Legislative Text 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 in accordance with Falls City Zoning and Development Code 3.106 and state 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) quasi-judicial land use applications and in the dual role of Planning Commission and Council for the legislative action. 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 to process all four (4) land use matters. (Council Votes)***

Now we will proceed with the three (3) Quasi-Judicial 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. If you have any written

testimony or other evidence to submit, please give that to staff so it can be entered into the record. When public testimony has been concluded I will close the public hearing and open it up for council discussion and deliberation.

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) quasi-judicial 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 or have other information about a proposal gathered outside of this hearing. Also, Councilors may only participate if they can do so without un-due bias either for or against an 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.*

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. (\* NOTE: Only questions asked of staff are allowed after the hearing is closed.)

**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)*

**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. (\* NOTE: Only questions asked of staff are allowed after the hearing is closed.)

**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.

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. (\* NOTE: Only questions asked of staff are allowed after the hearing is closed.)

**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 ( 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 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 those in support of the proposed amendments to speak

I invite those opposed to the proposed amendments to speak

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

I invite public agencies to comment.

Does staff wish to respond to any testimony presented?

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?

*If you have a request to keep the record open. (Hearing will close, but record will be left open for the submission of additional written evidence and testimony. Set date for when record closes.)*

[If there is no request to keep the record open] Now it is time for Council deliberation and discussion. *(\*NOTE: The Council's deliberation may include questions to staff and to any person present.)*

**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 FOR A QUASI-JUDICIAL APPLICATION]***

**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.

**CITY OF FALLS CITY**

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

*Exhibit C*

**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



## 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. Goal 12 is implemented via the State Transportation Planning Rules (TPR) 660-012-0060. The TPR applies to comprehensive plan and zone amendments and



requires mitigation where those amendments would significantly affect an existing or planned transportation facility. On the subject parcel, more traffic may be generated by the proposed zone of Commercial/Residential than could be generated under the current zoning of Public/Institutional. However, two of the subject three properties are currently developed and no development is proposed as part of the subject application. 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. For this reason, the proposed amendments will not significantly affect any existing or planned transportation facility. Staff finds the proposed amendment complies with Goal 12 and this ~~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.*

## CITY OF FALLS CITY

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

*Exhibit D*

### STAFF REPORT

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

Staff Report: JULY 13, 2017

City Council Hearing: JULY 20, 2017

#### 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:	<b>City of Falls City</b>
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.

### 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.



*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 2,500; 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. The Transportation Planning Rule (TPR) applies to comprehensive plan and zone amendments and requires mitigation where those amendments would significantly affect an existing or planned transportation facility. On the subject parcel, less traffic is likely to be generated by the proposed zone change from Residential to Public/Open Space than could be generated under the current zoning as no development is proposed and, as the applicant notes, much of the use of the site is generated by foot traffic and existing pedestrian facilities. 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. For this reason, the proposed amendments will not

significantly affect any existing or planned transportation facility. Staff finds the proposed amendment complies with Goal 12 and this criterion can be met, with conditions.

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.*

**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.

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

**SECTION 1.** The City Council of the City of Falls City hereby adopts the findings in support of this redesignation and rezone, as set forth in the above recitals and as detailed in the attached **Exhibit A.**

**SECTION 2.** The zoning for the subject properties is hereby changed from Public Assembly/Institutional (PAI) to Commercial/Residential (CR).

**SECTION 3.** This Ordinance will go into full force and effect 30 days after its adoption.

**ORDINANCE NO. 545-2017**

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

READ FIRST TIME by the Common Council of the City of Falls City this \_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:                NAYS:                ABSTAIN:

READ SECOND TIME AND ADOPTED by the Common Council of the City of Falls City this  
 \_\_\_\_ day of \_\_\_\_\_ 2017.

AYES:                NAYS:                ABSTAIN:

Terry Ungricht, Mayor Date

ATTEST \_\_\_\_\_  
Domenica Protheroe, City Clerk Date

**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.

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

**SECTION 1.** The City Council of the City of Falls City hereby adopts the findings in support of this redesignation and rezone, as set forth in the above recitals and as detailed in the attached **Exhibit A.**

**SECTION 2.** The split zoning and comprehensive plan designation for the subject property is hereby changed from Public Assembly/Institutional (PAI) Residential (R).

**SECTION 3.** This Ordinance will go into full force and effect 30 days after its adoption.

**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.**

READ FIRST TIME by the Common Council of the City of Falls City this \_\_ day of \_\_\_\_, 2017.

AYES:                      NAYS:                      ABSTAIN:

READ SECOND TIME AND ADOPTED by the Common Council of the City of Falls City this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:                      NAYS:                      ABSTAIN:

Terry Ungricht, Mayor	Date
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ATTEST \_\_\_\_\_  
Domenica Protheroe, City Clerk Date



**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.

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

**SECTION 1.** The City Council of the City of Falls City hereby adopts the findings in support of this redesignation and rezone, as set forth in the above recitals and as detailed in the attached **Exhibit A.**

**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.**

**SECTION 2.** The comprehensive plan map designation and the zoning for the subject property is hereby changed from Residential (R) to Public Open Space (P).

**SECTION 3.** This Ordinance will go into full force and effect 30 days after its adoption.

READ FIRST TIME by the Common Council of the City of Falls City this \_\_ day of \_\_\_\_, 2017.  
 AYES:            NAYS:            ABSTAIN:

READ SECOND TIME AND ADOPTED by the Common Council of the City of Falls City this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:                      NAYS:                      ABSTAIN:

Terry Ungricht, Mayor Date

ATTEST \_\_\_\_\_  
Domenica Protheroe, City Clerk Date