

# NOTICE OF DECISION

PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005



*Si necesita ayuda para comprender esta información, por favor llame  
503-588-6173*

## ADMINISTRATIVE DECISION FOR CLASS 1 TIME EXTENSION

**CASE NO.:** CU-SPR-ADJ-DAP-TRV-DR22-02-EXT1  
**AMANDA NO.:** 24-104099-00 PLN  
**DATE OF DECISION:** March 4, 2024  
**LOCATION:** 3200 Block of Boone Road SE, Salem OR 97317  
**APPLICANT:** Mark Ferris

### REQUEST

A Class 1 Extension to extend the approval for the Conditional Use Permit to allow a new multi-family residential use and a Tree Regulation Variance request to remove 21 significant trees (Oregon white oaks with a diameter-at-breast height (DBH) of 24 inches or greater) of the 27 total significant trees identified on this portion of the development site's consolidated application. These are a part of a combined application containing a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach, Tree Regulation Variance and Class 1 Design Review (CU-SPR-ADJ-DAP-TRV-DR22-02). Only the Conditional Use Permit and Tree Regulation Variance are being extended at this time.

### BACKGROUND

On June 2, 2022, the Planning Administrator approved with conditions a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach, Tree Regulation Variance and Class 1 Design Review, CU-SPR-ADJ-DAP-TRV-DR22-02.

### FINDINGS

1. Approval for the Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach, Tree Regulation Variance and Class 1 Design Review was granted on June 2, 2022. Pursuant to SRC Chapter 300, all approvals of land use actions shall expire automatically unless development has commenced, or a time extension has been granted. Where the decision involves work for which a Subdivision final plat is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a Subdivision final plat has been issued.

No development permits have been received or issued; development has not commenced for this project. Therefore, the applicant has requested a two-year extension, which would extend the expiration period to June 2, 2026.

2. Under the City's Unified Development Code, extension requests are classified under one of the following two classes:

- **Class 1 Extension.** A Class 1 Extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application: or
- **Class 2 Extension.** A Class 2 Extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.

Because there have not been changes to the standards and criteria used to approve the original application, this extension request is classified as a Class 1 Extension.

### 3. Class 1 Time Extension Approval Criteria

SRC 300.850(b)(4)(A) establishes the following approval criterion which must be met for a Class 1 Time Extension to be approved:

*A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.*

**Finding:** The application for a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach, Tree Regulation Variance and Class 1 Design Review was submitted on November 22, 2021. Only the Conditional Use Permit and Tree Regulation Variance are being extended at this time. The Conditional Use Permit and Tree Regulation Variance were reviewed for compliance with the approval criteria set forth in SRC Chapters 220, 225 and 551.

SRC Chapter 551, was changed as part of amendments in December 2022 (Ordinance No. 22-22). The development code revisions were not intended to invalidate existing land use decisions that were approved under prior code standards or preclude such previously approved land use decisions from being extended when there is time remaining under their original approval. To that end, the adopted ordinances includes the following requirement for the review of extension requests of land use applications.

Engrossed Ordinance Bill No 11-22, Section 3, provides that land use applications submitted and/or approved prior to the effective date of the ordinance that would require a Class 2 extension approval as a result of changes to standards or criteria included in this ordinance or Engrossed Ordinance 22-22 may, notwithstanding the applicability and approval criteria for Class 2 extensions included under SRC 300.850(b)(2)(B) and SRC 300.850(b)(4)(B), receive Class 1 extension approval provided the decision has not expired and there are remaining extensions available. Therefore, a Class 1 Extension is applicable.

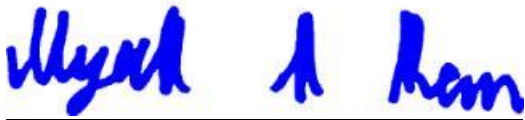
Because CU-SPR-ADJ-DAP-TRV-DR22-02 was approved on June 2, 2022 prior to the effective date of either ordinance, the decision has not expired; and because this is the first extension request for the conditional use where, pursuant to SRC 300.850(b) - Table 300-3, up to a maximum of two two-year extensions are allowed, the requested extension meets the requirements of Section 4 of Ordinance Bill No. 11-22 and may be approved notwithstanding

SRC 300.850(b)(4)(B). The applicant is requesting one two-year extension, which would extend the expiration date to June 2, 2026. This approval criterion is met.

## **DECISION**

Based on the requirements of SRC 300.850(b)(4)(A), the proposed Class 1 Extension complies with the requirements for an affirmative decision. The Class 1 Extension to extend the approval of the Conditional Use Permit and Tree Regulation Variance which is a part of a consolidated application (CU-SPR-ADJ-DAP-TRV-DR22-02) is hereby **APPROVED**.

**The extension shall be valid through June 2, 2026.**



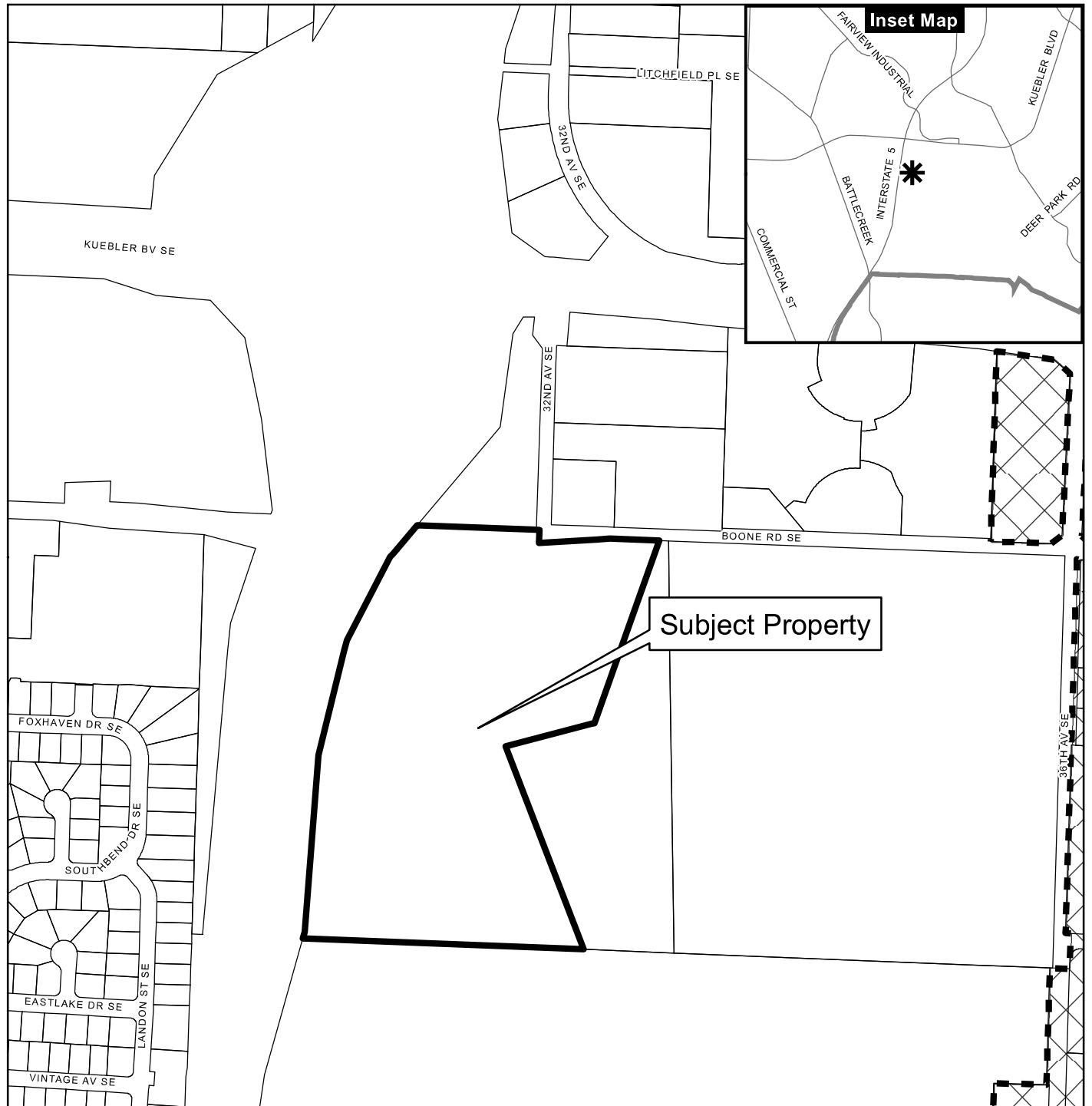
Abigail Pedersen, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments: A. Vicinity Map  
B. Applicant's Extension Request  
C. Land Use Decision Case No CU-SPR-ADJ-DAP-TRV-DR22-02

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# Vicinity Map

## 3200 Block of Boone Road SE



### Legend

- |                       |                           |
|-----------------------|---------------------------|
| Taxlots               | Outside Salem City Limits |
| Urban Growth Boundary | Historic District         |
| City Limits           | Schools                   |

Parks

**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

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0 100 200 400 Feet







## Land Use Application

Permit #: 24 104099 00 PLN

### Planning/Permit Application Center

City Hall

555 Liberty St. SE, Room 320

Salem OR 97301-3513

503-588-6213 [planning@cityofsalem.net](mailto:planning@cityofsalem.net)

If you need the following translated in Spanish, please call 503-588-6256.

Si usted necesita lo siguiente traducido en español, por favor llame 503-588-6256.

### Project Description

A request for a time extension for CU-SPR-ADJ-DAP-TRV-DR22-02 at 3230 Boone Rd. SE

Class 1 Adjustment - Modification

### Work site location and information

Street address of or location of subject property	3230 BOONE RD SE SALEM OR 97317
Size of property (acres)	27.01
Tax Lot Number	083W13A000300
Neighborhood Association	Southeast Mill Creek Association (SEMCA)

### People information

Applicant	MARK FERRIS	3425 BOONE RD SE SALEM OR 97317	503-939-3723 <a href="mailto:mferris@livebsl.com">mferris@livebsl.com</a>
Owner	MWSH BOONE ROAD PR	3425 BOONE RD SE SALEM OR 97317	503-566-5715 <a href="mailto:jeld@livebsl.com">jeld@livebsl.com</a>
Contact	MARK FERRIS	3425 BOONE RD SE SALEM OR 97317	503-939-3723 <a href="mailto:mferris@livebsl.com">mferris@livebsl.com</a>

### Project information

Site Area (Acreage)	27.01
Comprehensive Plan	Developing Residential
Zoning	RA
Number of Class 1 Adjustments	1
MS4 Reporting	Yes
Existing use structures and/or other improvements on site	One current home, but basically property is vacant
Neighborhood Association Contact	Sent letter and exhibits to the South Gateway neighborhood Association on December 20th, 2021
Salem-Keizer Transit Contact	None
Homeowners Association	Not formed at this time.

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## DECISION OF THE HEARINGS OFFICER

**CONDITIONAL USE / CLASS 3 SITE PLAN REVIEW / CLASS 2 ADJUSTMENT /  
CLASS 2 DRIVEWAY APPROACH PERMIT / TREE VARIANCE / CLASS 1  
DESIGN REVIEW CASE NO.: CU-SPR-ADJ-DAP-TRV-DR22-02**

**APPLICATION NO.: 21-121613-ZO / 21-121614-RP / 21-121616-ZO / 21-121618-  
ZO / 22-106445-NR / 22-103391-DR**

**NOTICE OF DECISION DATE:** May 17, 2022

**SUMMARY:** Phase 2 development of the McKenzie Heights complex, this phase includes twelve multiple family residential buildings and twelve townhome buildings containing a total of 272 dwelling units.

**REQUEST:** A Conditional Use Permit request to allow a new multi-family residential use, and Class 3 Site Plan Review, Class 2 Driveway Approach Permits, and Class 1 Design Review for development of a new twelve building apartment complex and twelve townhome buildings containing a total of 272 dwelling units, with Class 2 Adjustment requests to:

- 1) Eliminate the requirement for off-street parking areas to be provided behind or beside a building or structure per SRC 702.020(d)(2) and allow off-street parking areas to be provided between a building and a street.
- 2) Adjust the pedestrian access standards per SRC 702.020(d)(4) and allow an alternative pedestrian pathway to be provided through the interior corridor of a proposed building.
- 3) Increase the maximum building length per SRC 702.020(e)(1) from 150 feet to 162 feet for proposed Building 11.
- 4) Reduce the minimum building setback abutting the RA zoned property to the south from one foot for each foot of building height per SRC 702.020(e)(2) to 20 feet.
- 5) Eliminate the requirement for a minimum of 40 percent of the buildable width to be occupied by buildings placed at the minimum setback per SRC 702.020(e)(4).
- 6) Eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units per SRC 702.020(e)(5) for proposed Building 7.

And a Tree Regulation Variance request to remove 21 significant trees (Oregon white oaks with a diameter at breast height of 24 or greater) of the 27 total significant trees identified on this portion of the development site. For property approximately 27 acres in size, zoned IC (Industrial Commercial), and located at the 3200 Block of Boone Road SE - 97317 (Marion County Assessor Map and Tax Lot number: 083W13A / 00300).

**APPLICANT:** Brandie Dalton, Multi Tech Engineering Inc., on behalf of MWSH Boone Road Property LLC (Kelley D. Hamilton)

**LOCATION:** 3200 Block of Boone Road SE

**CRITERIA:** Salem Revised Code (SRC) Chapters 240.005(d) – Conditional Use; 220.005(f)(3) – Class 3 Site Plan Review; 250.005(d)(2) – Class 2 Adjustment; 804.025(d) – Class 2 Driveway Approach Permit; 808.045(d) – Tree Variances; 225.005(e)(1) – Class 1 Design Review

**FINDINGS:** The findings are in the attached Decision dated May 13, 2022.

**DECISION:** The **Hearings Officer APPROVED** Conditional Use / Class 3 Site Plan Review / Class 2 Adjustment / Class 2 Driveway Approach Permit / Tree Variance / Class 1 Design Review Case No. CU-SPR-ADJ-DAP-TRV-DR22-02 subject to the following conditions of approval:

**CONDITIONAL USE:**

- Condition 1:** Prior to issuance of building permit, the applicant shall demonstrate that in coordination with Salem Keizer Public Schools, a safe accessible bus transportation route shall be provided for the proposed development. This may be accomplished by either 1) completing a street connection to 36th Avenue SE that accommodates school buses; 2) by providing sidewalks along Boone Road SE and on 36th Avenue SE connecting to a school bus stop to be located on 36th Avenue SE; or 3) the applicant may coordinate an alternative plan with Salem Keizer Public Schools to ensure a safe bus route is provided for this development.
- Condition 2:** Prior to issuance of building permit, the applicant shall coordinate with Salem Keizer Public Schools and Cherriots to provide bus pullouts and a covered shelter to be used by school buses as well as the transit district. These improvements may be complete with Phase 1 of the McKenzie Heights apartments.
- Condition 3:** The multi-family use for Phase 2 McKenzie Heights shall contain no more than 272-dwelling units.

**SITE PLAN REVIEW:**

- Condition 4:** The final plat for Partition Case No. PAR19-12, or the final plat for Phased Subdivision Tentative Plan Case No. SUB22-04 shall be recorded prior to issuance of any civil site work or building permits. Alternatively, civil site work or building permits may be issued without recording a final partition or subdivision plat if the applicant files correction deeds with Marion County reverting the existing units of land back to their last known legal configuration.
- Condition 5:** Prior to building permit approval, the applicant shall demonstrate that a minimum of 15 percent of the development site will be landscaped. The applicant may request relief from this standard by submitting a future Class 2 Adjustment.
- Condition 6:** An Airport Overlay Zone Height Variance per SRC Chapter 602 shall be required prior to issuance of any building permit for a building or structure exceeding the maximum height allowance of the Airport Overlay Zone.
- Condition 7:** Development of the solid waste service areas shall conform to all applicable standards of SRC Chapter 800.

**Condition 8:** Prior to building permit issuance the applicant shall revise the site plan to comply with the minimum vehicle use area setback requirement to the buildings and structures.

**Condition 9:** Per SRC 807.030(d), when more than 75 percent of the existing trees are proposed for removal and when trees are removed from a required setback, a minimum of two replacement trees shall be incorporated into the landscape plan and planted. Replacement trees are in addition to the landscaping required under this chapter.

**Condition 10:** Along Boone Road SE from 36th Avenue to 32nd Avenue, construct a minimum 15 foot-wide half-street improvement on the development side and a minimum 15 foot wide turnpike improvement on the opposite side of the centerline as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.

This improvement shall include a reconfiguration of the existing Boone/32nd intersection as described in Exhibit 14 of the TIA submitted for McKenzie Heights Phase 1 (CU-SPR-ADJ-DAP-DR21- 02).

**Condition 11:** Construct 32nd Avenue SE from Boone Road SE to 36th Avenue SE in the alignment shown on the applicants preliminary site plan.

**Condition 12:** Construct "A Drive" to Local Street Standards from 32nd Avenue SE to the southern property boundary as shown on the preliminary applicants site plan.

**Condition 13:** Pay the Bonaventure Reimbursement District Fee for Kuebler Boulevard Street Improvements pursuant to Resolution No. 2015-17.

**Condition 14:** Provide the following traffic mitigation as described in the applicants TIA:

- a. Construct dual northbound left turn lanes on 36th Avenue SE at Kuebler Boulevard SE, and two westbound receiving lanes on Kuebler Boulevard SE from 36th Avenue SE to the northbound I-5 ramps.
- b. Acquire off-site right-of-way as necessary along 36th Avenue SE to accommodate the additional turn lanes.
- c. Modify the north leg of 36th Avenue SE to line up the through lanes.

**Condition 15:** Construct a half-street improvement along the frontage of 36th Avenue SE to Minor Arterial street standards as specified in the City Street

Design Standards and consistent with the provisions of SRC Chapter 803. In lieu of constructing the improvement with this development phase, the applicant may provide a 40-foot-wide temporary construction easement to the City of Salem along the entire frontage of 36th Avenue SE; the easement shall be modified or converted to right- of-way pursuant to PWDS upon completion of the street improvement design along 36th Avenue SE. Along the entire frontage of 36th

Avenue SE, dedicate right-of-way on the development side of the centerline to equal a minimum half-width of 36 feet on 36th Avenue SE.

- Condition 16:** Construct an S-1 18-inch water main in 36th Avenue SE from Boone Road SE to the south line of the subject property.
- Condition 17:** Construct a minimum S-1 8-inch water main along proposed 32nd Avenue SE from 36th Avenue SE to A Street SE and in other internal streets pursuant to PWDS.
- Condition 18:** As a condition of development in the S-1 water service level the following options are available:
- a. Pay a temporary access fee of \$180,800 and connect to the existing S-1 water system as a temporary facility pursuant to SRC 200.080(a); or
  - b. Construct Water System Master Plan S-1 facilities needed to serve the development, which include Coburn S-1 Reservoir, Boone Road Pump Station, and transmission mains connecting the facilities.
- Condition 19:** The maximum first floor of any structure constructed on the subject property shall not exceed an elevation of 358 feet.
- Condition 20:** Construct a master plan sewer main in 36th Avenue SE from Kuebler Boulevard SE to the south line of the subject property.
- Condition 21:** Construct a 12-inch sewer main from 36th Avenue SE to the southerly terminus of A Drive SE.
- Condition 22:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).

**ADJUSTMENTS:**

- Condition 23:** The adjusted development standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

**TREE REGULATION VARIANCE:**

- Condition 24:** A minimum of two replacement Oregon White Oaks shall be replanted for each significant tree removed and incorporated into the landscape design for this development. Replanted trees shall have a minimum two-inch caliper.

**DESIGN REVIEW:**

**Condition 25:** Prior to building permit approval, the applicant shall demonstrate that applicable screening standards as required by SRC 702.020(b)(2) are met adjacent to RA zoned property to the South of the site. The applicant may request relief from this standard by submitting a future Class 2 Adjustment.

The rights granted by the attached decision must be exercised, or an extension granted, by June 2, 2024, or this approval shall be null and void.

Application Deemed Complete:	<u>March 25, 2022</u>
Public Hearing Date:	<u>April 27, 2022</u>
Notice of Decision Mailing Date:	<u>May 17, 2022</u>
Decision Effective Date:	<u>June 2, 2022</u>
State Mandate Date:	<u>July 23, 2022</u>

Case Manager: Aaron Panko, Planner III, [APanko@cityofsalem.net](mailto:APanko@cityofsalem.net), 503-540-2356

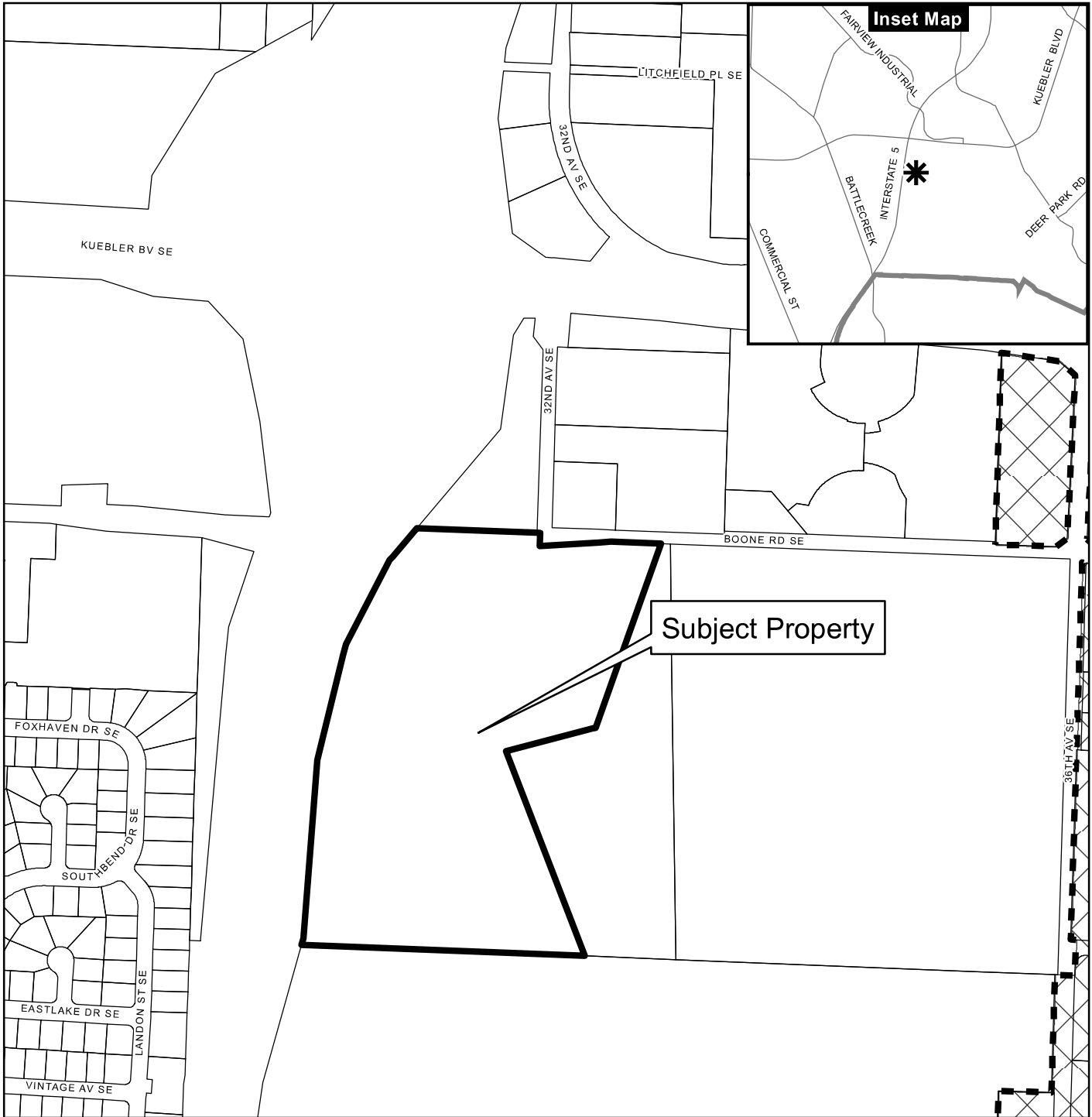
This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Wednesday, June 1, 2022. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 240, 220, 250, 804, 808, and 225. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Planning Commission will review the appeal at a public hearing. After the hearing, the Salem Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.






<http://www.cityofsalem.net/planning>

# Vicinity Map

## 3200 Block of Boone Road SE



### Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools

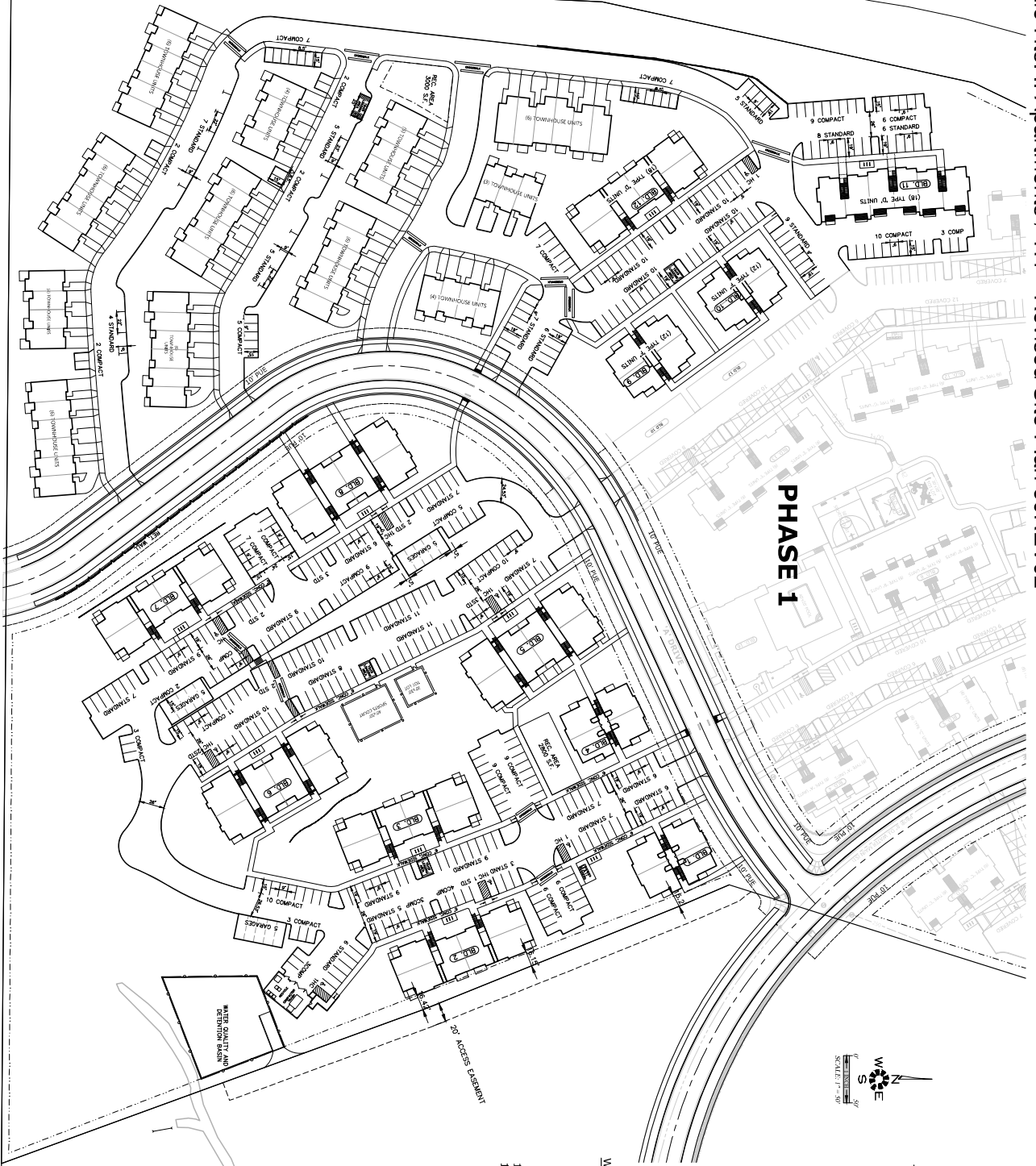
 Parks

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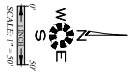
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# PHASE 1



SITE AREAS  
BOUNDARY 1,412,323 S.F.  
TOTAL SITE 830,133 S.F.

- EAST SIDE**
- 150 TOTAL APARTMENT UNITS EAST
  - 24 TYPE "H" 2-Bd, 2-Ba (1032 S.F.) UNITS
  - 18 TYPE "W6" 2-Bd, 2-Ba (1067 S.F.) UNITS
  - 36 TYPE "W4" 2-Bd, 2-Ba (1038 S.F.) UNITS
  - 36 TYPE "A" 3-Bd, 2-Ba (1205 S.F.) UNITS
  - 36 TYPE "A" 1-Bd, 1-Ba (651 S.F.) UNITS
  - 302 TOTAL PARKING STALLS
  - 161 STANDARD STALLS
  - 119 COMPACT STALLS
  - 7 HANDICAP STALLS
  - 15 GARAGES (1 HANDICAP)
  - 42 BICYCLE SPACES IN 7 RACKS (38 REQUIRED)
  - 1 40'x50' SPORTS COURT
  - 1 30'x30' TOT LOT
  - 1 TRASH COMPACTOR / RECYCLE
  - 2 PLAY AREAS
  - 1 U.S. MAIL BOX AREA
  - 1 CLUBHOUSE / MANAGERS OFFICE (PHASE 1)
  - 1 SWIMMING POOL (42'x22') (PHASE 1)
  - 1 REC. AREA

- WEST SIDE**
- 60 TOTAL APARTMENT UNITS WEST
  - 24 TYPE "H" 2-Bd, 2-Ba (1010 S.F.) UNITS
  - 18 TYPE "W6" 2-Bd, 2-Ba (1037 S.F.) UNITS
  - 18 TYPE "W4" 2-Bd, 2-Ba (1067 S.F.) UNITS
  - 62 TOWNHOUSE UNITS
  - 181 TOTAL PARKING STALLS
  - 103 STANDARD STALLS
  - 60 COMPACT STALLS
  - 1 HANDICAP STALLS
  - 1 12'x19' LOADING AREA
  - 1 12'x25' LOADING AREA
  - 1 REC. AREA
  - 8 GARAGES
  - 12 BICYCLE SPACES IN 2 RACKS (12 REQUIRED)
  - 1 U.S. MAIL BOX AREA

THE TOTAL BUILDING AREA FOR THIS PROJECT IS 1,412,323 S.F. THE TOTAL SITE AREA IS 830,133 S.F. THE TOTAL PARKING AREA IS 302 STALLS. THE TOTAL BICYCLE AREA IS 42 SPACES. THE TOTAL TRASH COMPACTOR / RECYCLE AREA IS 1. THE TOTAL PLAY AREA IS 2. THE TOTAL U.S. MAIL BOX AREA IS 1. THE TOTAL CLUBHOUSE / MANAGERS OFFICE (PHASE 1) AREA IS 1. THE TOTAL SWIMMING POOL (42'x22') (PHASE 1) AREA IS 1. THE TOTAL REC. AREA IS 1.

- - POLE LIGHT MAXIMUM 14' TALL
- - LOCATION OF ELECTRICAL SEPARATION WALL
- - MAXIMUM 1:12 SLOPE ON SIDEWALK END RAMP
- III - 6 BICYCLE SPACES.

## ADA HANDICAP ACCESSIBILITY NOTES:

1. ALL ON-SITE WALKWAYS, FOREDRUM CONNECTIONS TO THE PUBLIC WALKWAYS, AND STAIRS SHALL BE CONSTRUCTED TO THE MINIMUM 4:1 SLOPE. ALL STAIRS SHALL HAVE A SLOPE IN THE DIRECTION OF TRAVEL NOT TO EXCEED 2%.
2. HANDICAP PARKING STALLS AND ACCESS AREAS ARE TO HAVE SLOPES IN THE DIRECTION OF TRAVEL NOT TO EXCEED 2%.
3. HANDICAP AND VAN ACCESSIBLE STALLS WILL BE PROVIDED 20'0" CLEARANCE AND ONE SIDEWALK SHALL HAVE A SLOPE NOT TO EXCEED 1%.
4. THE COMMUNITY BUILDING & ON-SITE MANAGER FACILITIES WILL BE ONLY OF THE 2ND FLOOR.
5. 2% OF THE LIVING UNITS OR (1) UNITS WILL BE TYPE "A" HANDICAP ON THIS SITE PLAN. THE BALANCE OF THE SECOND FLOOR LIVING UNITS WILL BE TYPE "B" HANDICAP UNITS IN ACCORDANCE WITH ADA AND A117.1.

## McKENZIE HEIGHTS PHASE 2

## SITE PLAN



Design: M.D.S.  
Drawn: T.H.S.  
Checked: AUG 2006  
Date: AS SHOWN  
Scale: AS SHOWN

NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.  
DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.



**CITY OF SALEM  
BEFORE THE HEARINGS OFFICER**

CONDITIONAL USE / CLASS 3 SITE PLAN	}	
REVIEW / CLASS 2 ADJUSTMENT / CLASS 2	}	<b><u>CASE NO. CU-SPR-ADJ-DAP-TRV-DR22-02</u></b>
DRIVEWAY APPROACH PERMIT / TREE	}	
REGULATION VARIANCE / CLASS 1 DESIGN	}	
REVIEW CASE NO. CU-SPR-ADJ-DAP-TRV-	}	FINDINGS OF FACT, CONCLUSIONS, AND
DR22-02 3200 BLOCK OF BOONE ROAD SE	}	DECISION
– 97317 AMANDA NO. 22-121613-ZO, 22-	}	
121614-RP, 22-121616-ZO, 22-121618-ZO,	}	
22-106445-NR & 22-103391-DR	}	

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**DATE AND PLACE OF HEARING:**

The City of Salem Hearings Officer held a properly noticed public hearing, remotely on April 27, 2022, due to social distancing measures put in place to slow the spread of the COVID-19 virus.

**APPEARANCES:**

Staff: Aaron, Panko, Planner III

Neighborhood Association: No appearances.

Proponents: Mark Grenz, P.E. , Multi/Tech Engineering Services, on behalf of owners John Eld and Mark Lowen (MWSH Boone Road Property LLC)

Opponents: No appearances.

**SUMMARY OF THE APPLICATION AND HEARING**

**BACKGROUND**

On November 22, 2021, City Staff accepted a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review applications for processing. After receiving additional information including a Tree Regulation Variance, the City Staff deemed the collective applications complete for processing on March 25, 2022. The 120-day state mandated decision deadline for this collective application is July 23, 2022.

The public hearing before the City of Salem Hearings Officer was held on April 27, 2022, at 5:30 p.m. Notice of public hearing had been sent by mail to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) requirements on April 7, 2022. Public hearing notice was also posted on the property on April 14, 2022, pursuant to SRC requirements.

## **PROPOSAL**

The Applicant applied for a Conditional Use Permit, Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, Tree Regulation Variance, and Class 1 Design Review approval to allow development of a multi-building apartment and townhome complex with a total of 272 dwelling units and associated site improvements for property located at 3200 Block of Boone Road SE.

## **FINDINGS OF FACT AND CONCLUSIONS**

### **1. Salem Area Comprehensive Plan (SACP) designation**

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial Commercial." The subject property is located within the Urban Growth Boundary; however, the property is outside of the Urban Service Area.

The City previously approved an Urban Growth Area Preliminary Declaration for the subject property (UGA 19-01) to determine the public facilities required for development of approximately 80 acres, including the subject property, located at 3230 Boone Road SE.

### **2. Zoning and Surrounding Land Uses**

The subject property is zoned IC (Industrial Commercial). The zoning of surrounding properties is as follows:

North: Across Boone Road SE; IG (General Industrial)

South: RA (Residential Agriculture)

East: IC (Industrial Commercial)

West: Interstate 5

### **3. Site Analysis**

The subject property is proposed Parcel 1 from Tentative Partition Plan PAR19-12 and is approximately 27 acres with approximately 405 feet of frontage on Boone Road SE. Boone Road SE is designated as a Local street in the Transportation System Plan.

The City is currently processing a request for a Phased Subdivision Tentative Plan (SUB22-04) to divide the entire approximately 79-acre overall site into divide into 12 lots, ranging in size from 107,483 square feet to 499,672 square feet in size, with two phases of development. The proposed development for Phase 2 McKenzie Heights apartments occurs on lots 3-5 of this phased subdivision request.

#### **4. Neighborhood and Citizen Comments**

The subject property is located within the Southeast Mill Creek Association (SEMCA). Pursuant to SRC Chapter 300, the applicant is required to contact the Neighborhood Association prior to submittal of this consolidated application. On December 20, 2021 the applicant contacted SEMCA, meeting the requirements of SRC 300.310(c). Notice was provided to SEMCA and to surrounding addresses, property owners, and tenants within 250 feet of the subject property. No neighborhood association comments were received before the end of the hearing and no neighborhood association representatives appeared at the hearing. Two public comments were received by staff which expressed concerns about the amount of recent growth in the area, the increase in traffic and the existing conditions of 36th Avenue SE.

The Hearings Officer notes and agrees with the staff response. Developments such as the proposed apartment complex are required to provide planned traffic mitigation measures as growth and development occurs, which will result in increased vehicular trips in this area. In 2017, the City approved a Comprehensive Plan Map Amendment and Zone Change (CPC-ZC17-02) for the subject property which limits traffic impacts from future development on the subject property to a maximum of 12,916 average daily trips.

The Hearings Officer notes that for this request, the applicant has submitted a Traffic Impact Analysis that evaluates the proposed development along with the proposed Industrial Flex Spaces and Storage Units that are under separate review (SPR-DAP22-19). The TIA demonstrates that the proposed development does not exceed the trip cap from CPC-ZC17-02, but does identify dual northbound left turn lanes on 36th Avenue SE and two westbound receiving lanes on Kuebler Boulevard SE that extend to the northbound I-5 ramps as required mitigation measures. The dual northbound left turn lanes need to provide 200 feet of vehicle stacking or storage. Widening 36th Avenue SE to accommodate the additional turn lanes may require the acquisition of additional ROW. The north leg of 36th Avenue SE will need to be widened to ensure the lanes line up with the new southern leg lane configuration. Traffic signal poles may also need to be relocated to accommodate these improvements.

The Hearings Officer notes that the existing condition along the frontage of 36th Avenue SE does not meet Minor Arterial standards. A half-street improvement and right-of-way dedication are required, along with the required mitigation as described in the applicants' TIA and also may be a requirement for development for the proposed Industrial Flex Spaces and Storage Units.

## 5. City Department and Public Agency Comments

The Public Works Department reviewed the proposal and provided a memo which included with the Staff Report as Attachment D.

The Salem Building and Safety Division reviewed the proposal and indicated no concerns.

The Salem Fire Department reviewed the proposal and indicated that Fire Department access is adequate. Fire hydrant locations are not provided and will need to be within 600 feet of all portions of the building as measured along an approved route. FDC shall be in an approved location and within 100 feet of a fire hydrant.

The Historic Preservation Officer/City Archaeologist has reviewed the proposal and commented that while there are no known archaeological resources on the property located at 3230 Boone Rd SE (083W13A00300), this tax lot is within Salem's High Probability archaeological zone and there are several known archaeological sites within the Area of Potential Effect for this project. At the time of City permit submittal authorizing ground disturbing activity on the site (i.e. grading/civil site work), the applicant is required to provide evidence of notification to the Oregon State Historic Preservation Office (SHPO) of this project. Additionally, prior to any ground disturbing activity on the site, the applicant must ensure the Confederated Tribes of the Grand Ronde, the Confederated Tribes of the Siletz and the Confederated Tribes of Warm Springs have been notified of the project. At the time of permit submittal, the applicant is required to provide a copy of their Inadvertent Discovery Plan or shall ensure the City of Salem's Inadvertent Discovery Plan (IDP) is in place during ground disturbing activity.

Salem-Keizer Public Schools has reviewed the proposal and provided a memo which is included as Attachment E for the staff report. In summary, the subject property is located outside of the walk zone for Lee Elementary School, Judson Middle School, and South Salem High School, and students living at the proposed facility will be eligible for transportation. Salem-Keizer Public Schools comments that in order to access this property with school buses, improvements will be needed so that buses can drive through in a forward direction, without backing and with sufficient clearance at all times. This may be accomplished by completing a street connection to 36th Avenue SE, or school buses could stop on 36th Avenue SE at Boone Road SE, which would require completing sidewalks along Boone Road SE and on 36th Avenue SE to connect the subject property with a school bus stop that would be located on 36th Avenue SE. Bus pullouts and a covered shelter are required to be provided. Finally, the applicant may coordinate an alternative plan with Salem Keizer Public Schools to ensure a safe bus route is provided for this development. In order to ensure that the development meets these requirements, the Hearings Officer imposes the following conditions of approval:

**Condition 1:** Prior to issuance of building permit, the applicant shall demonstrate that in coordination with Salem Keizer Public Schools, a safe accessible bus transportation route shall be provided for the proposed development. This

may be accomplished by either 1) completing a street connection to 36th Avenue SE that accommodates school buses, 2) by providing sidewalks along Boone Road SE and on 36th Avenue SE connecting to a school bus stop to be located on 36th Avenue SE, or 3) the applicant may coordinate an alternative plan with Salem Keizer Public Schools to ensure a safe bus route is provided for this development.

**Condition 2:** Prior to issuance of building permit, the applicant shall coordinate with Salem Keizer Public Schools and Cherriots to provide bus pullouts and a covered shelter to be used by school buses as well as the transit district. These improvements may be complete with Phase 1 of the McKenzie Heights apartments.

Salem Keizer Transit (Cherriots) has reviewed the proposal and provided a memo which is included with the Staff report as Attachment F.

## **6. Analysis of Conditional Use Criteria**

SRC Chapter 240.005(a)(1) provides that no building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

### Criterion 1:

The proposed use is allowed as a conditional use in the zone.

**Finding:** The Hearings Officer notes that SRC Chapter 551, Table 551-1 provides that multi-family uses are allowed in the IC (Industrial Commercial) zone with a conditional use permit. The Hearings Officer finds that the application satisfies this criterion.

### Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

**Finding:** The Hearings Officer notes that the applicant represents that the proposed development is compatible with the surrounding land uses. The Hearings Officer notes that the subject property is near the City limits boundary and was annexed into the City in 2011. The property south of Kuebler Boulevard and east of Interstate 5 is a transitional area with many properties that are within the Urban Growth boundary but that are outside of City limits. To the north is property zoned IG (General Industrial), which is occupied by single family dwellings. Further east is property zoned CO (Commercial Office) occupied by a

senior living facility. To the south is a large RA (Residential Agriculture) zoned property with a single-family dwelling. There are many underdeveloped areas and properties in the vicinity and this immediate area is likely to see future development and growth.

The Hearings Officer notes that the development standards of the zoning code, including setbacks, building height, and landscaping, are intended to address the difference in compatibility that arises between different uses. The multi-family residential design standards require additional screening for apartment complexes where they abut single family residential zoning; this includes more robust landscaping and fencing. This particular development proposal will include a more intensive row of landscaping and sight-obscuring fencing along the southern boundary, where the subject property abuts residential zoning, in compliance with the multi-family residential design standards, than is necessary along the other boundaries, where there are fewer impacts on residential uses.

The Hearings Officer notes that staff, public agencies and the public have evaluated the proposed 272-unit multi-family residential development based on the size and scale of the development as shown on the site plan. The Hearings Officer agrees with staff's analysis and finds that the proposal will have minimal impact on the immediate neighborhood. Any future increase to the size and scale of the development beyond the approved 272-dwelling units will require approval of a separate conditional use permit, therefore, the Hearings Officer imposes the following condition of approval:

**Condition 3:** The multi-family use for Phase 2 McKenzie Heights shall contain no more than 272-dwelling units.

With this condition, the Hearings Officer finds that the proposed development will have a minimal impact on the immediate neighborhood and, therefore, the Hearings Officer finds that the application satisfies this criterion.

#### Criterion 3:

The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

**Finding:** The Hearings Officer notes that in order to determine if the proposed multi-family use is reasonably compatible with the surrounding area, analysis of whether the proposed multi-family use is consistent with the goals and policies of the Salem Area Comprehensive Plan for multi-family residential development and siting is necessary.

#### **Residential Development (SACP IV Section E)**

##### ***Establishing Residential Uses.***

The location and density of residential uses shall be determined after considering the proximity to services. Such services include, but are not limited to, shopping, employment and entertainment opportunities, parks, religious institutions, schools and municipal

services. Relative proximity shall be determined by distance, access, and ability to provide services to the site.

***Multi-Family Housing.***

Multiple family developments should be located in areas that provide walking, auto or transit connections to:

- 1) Employment Centers
- 2) Shopping Areas
- 3) Transit Service
- 4) Parks
- 5) Public Buildings

**Finding:** The Hearings Officer notes that access to the subject property is provided by Boone Road SE, a proposed extension of 32nd Street SE, and a new unnamed street that will connect 32nd Street SE to the southern edge of the property. The application designates these streets as local streets. There is not a public sidewalk network in the area to connect to existing employment, shopping, or public services, leaving the proposed development largely auto dependent. Transit service is not provided in the area currently. However, as the area develops and grows in the future, the Hearings Officer agrees that public sidewalks and transit service will likely extend to the subject property.

The Hearings Officer notes that Kuebler Boulevard provides access to nearby Commercial Street SE and Lancaster Drive SE corridors where services, including a mix of largely commercial retail sales and services and office uses can be found. The subject property is also within a convenient distance from Interstate 5.

The nearest public parks to the subject property are Wes Bennett Park, which is classified as a Neighborhood Park, and Woodmansee Park, which is classified as a Community Park. Wes Bennett Park is located approximately 2.3 miles to the west of the subject property, accessed by Kuebler Boulevard SE and Reed Lane SE. Woodmansee Park is located approximately 3.3 miles to the northwest of the subject property, accessed by Kuebler Boulevard and Sunnyside Road SE.

Future City parks that are nearby include Reed Road Park, which is classified as a Neighborhood Park and Fairview Park, which is classified as a Community Park. Reed Road Park is located at the intersection of Reed Road SE and Battle Creek Road SE, and is approximately 1.9 miles to the west of the subject property, accessed by Kuebler Boulevard SE and Battle Creek Road SE. Fairview Park is located on Old Strong Road SE and is approximately 2.2 miles to the northwest of the subject property accessed by 32nd Avenue, Fairview Industrial Drive SE and Reed Road SE.

Lee Elementary School, Judson Middle School, and South Salem High School will serve students living in this area. Students residing at the proposed development will be outside of the walk zone and will be eligible for school transportation. As conditioned, the applicant

must coordinate with Salem Keizer Public Schools to provide a safe accessible route for bus transportation.

The Hearings Officer notes that the City is in the midst of a multi-year project to update the Salem Area Comprehensive Plan; this project is known as Our Salem. After more than a year and a half of outreach, Planners have developed a vision for future growth and development in the Salem area. The vision includes goals and a map that reflect priorities voiced by the community. The proposed comprehensive plan map for this area shows a mixture of commercial, industrial commercial, industrial and residential uses south of Kuebler and east of Interstate 5.

The Hearings Officer finds that the proposed multi-family use for the subject property is consistent with the current goals and policies of the Salem Area Comprehensive Plan for multi-family residential development and siting. As conditioned, the Hearings Officer finds that the proposed development will have a minimal impact on the livability and appropriate development of surrounding property.

## **7. Analysis of Class 3 Site Plan Review Approval Criteria**

SRC 220.005(f)(3) establishes the following approval criteria for a Class 3 Site Plan Review:

### Criterion 1:

The application meets all applicable standards of the UDC.

**Finding:** The Hearings Officer notes that the applicant is requesting approval for a second phase of development for the McKenzie Heights Apartments. Phase 1 has been previously approved for the subject property (CU-SPR-ADJ-DAP-DR21-02). Phase 2 proposes development of a total 272 dwelling units. The east side of the subject development site contains 150 proposed dwelling units provided in eight apartment buildings, and the west side of the development site contains 60 proposed dwelling units provided in four apartment buildings and 62 proposed dwelling units provided in 12 townhome style buildings. The Hearings Officer finds that proposed site plan complies with all applicable development standards of the Unified Development Code (UDC).

## **Use and Development Standards – IC (Industrial Commercial) Zone:**

*SRC 551.005(a) – Uses:*

**Finding:** The Hearings Officer notes that permitted, special and conditional uses for the IC zone are found in SRC Chapter 551, Table 551-1. Multiple family residential uses require a conditional use permit in the IC zone per Table 551-1. With the conditional use permit component of this application and approval, the Hearings Officer finds that the application satisfies this requirement.



*SRC 551.010(a) – Lot Standards:*

There are no minimum lot area or dimension requirements in the IC zone. All uses are required to have a minimum of 16 feet of street frontage.

**Finding:** The Hearings Officer notes that the subject property is proposed Parcel 1 from Tentative Partition Case No. PAR19-12. This parcel is approximately 27.03 acres in size and has approximately 350 feet of frontage along Boone Road SE, exceeding the minimum lot standards of the IC zone. Prior to issuance of any civil site work or building permits for the proposed development, the final plat for Partition 19-12 must be recorded. Alternatively, the applicant has applied for a concurrent phased subdivision tentative plan (SUB22-04) which is intended to replace the tentative decision for Partition Case No. PAR19-12 and further divide Phase 2 into three lots. The Hearings Officer notes that the decision for the subdivision is currently being processed and a final decision has not been issued; however, the Hearings Officer finds that if the subdivision is ultimately approved then the final subdivision plat may replace the requirement for the partition plat to be recorded.

The Hearings Officer notes that as an additional alternative, the applicant may utilize the boundaries of the existing approximately 80-acre parent parcel as a legal unit of land for the proposed development. In order to achieve this, the applicant would be required to file correction deeds with Marion County that revert the existing units of land back to their last known legal configuration. If the land is reverted to a legal configuration, then a partition plat or subdivision plat is not required prior to issuance of a building permit. In order to ensure that the application satisfies this requirement, the Hearings Officer imposes the following condition of approval:

**Condition 4:** The final plat for Partition Case No. PAR19-12, or the final plat for Phased Subdivision Tentative Plan Case No. SUB22-04 shall be recorded prior to issuance of any civil site work or building permits. Alternatively, civil site work or building permits may be issued without recording a final partition or subdivision plat if the applicant files correction deeds with Marion County reverting the existing units of land back to their last known legal configuration.

*SRC 551.010(b) – Setbacks:*

**North:** Adjacent to the north is property zoned IC (Industrial Commercial) that has been previously approved for Phase 1 McKenzie Heights Apartments. Multi-family buildings, structures and vehicle use areas require a minimum 15-foot setback adjacent to an interior side property line.

**Finding:** The Hearings Officer notes that the applicant is not proposing an interior lot line at this time; however, it is possible that the property will be divided in the future. If an interior lot line is proposed separating the Phase 1 and Phase 2 development sites, then a minimum 15-foot building, accessory structure, and vehicle use area setback shall be provided on both sides of the interior lot line.

**South:** Adjacent to the south is an interior yard that abuts property zoned RA (Residential Agriculture). For multi-family residential uses, there is a minimum 15-foot building and vehicle use area setback required abutting an interior rear yard.

**Finding:** The Hearings Officer notes that the proposed townhome buildings are setback approximately 20 feet, which complies with the minimum setback standard from the IC zone; however, a greater building setback is required for the proposed use per SRC Chapter 702.

**East:** Adjacent to the east is property zoned IC (Industrial Commercial). Multi-family buildings, structures and vehicle use areas require a minimum 15-foot setback adjacent to an interior side property line.

**Finding:** The Hearings Officer notes that Proposed Buildings 1 and 2, and the vehicle use areas, are setback more than 15 feet from the eastern property line, in compliance with the setback requirement.

**West:** Adjacent to the west is right-of-way for Interstate 5. Interstate 5 is not a street, so this is not an interior side lot line. Multi-family buildings, structures and vehicle use areas require a minimum 15-foot setback adjacent to an interior side property line.

**Finding:** The Hearings Officer notes that the proposed townhome buildings and vehicle use areas are setback 15 feet or more from the western property line, in compliance with the setback requirement.

**Adjacent to “A Drive”:** A minimum five-foot building and accessory structure setback is required adjacent to a street, and a minimum 6–10-foot vehicle use area setback is required adjacent to a street.

**Finding:** The Hearings Officer notes that the proposed townhome buildings and vehicle use areas are setback from “A Drive” in compliance with minimum setback requirements.

*SRC 551.010(c) – Lot Coverage, Height:*

There is no maximum lot coverage standard in the IC zone, the maximum height allowance for all buildings and structures is 70 feet.

**Finding:** The Hearings Officer notes that the proposed multi-family buildings range in height from approximately 33 to 49 feet and the proposed garages are less than 15 feet in height, in compliance with the maximum height allowance of the IC zone.

*SRC 551.010(d) – Landscaping:*

(1) *Setbacks.* Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.

(2) *Vehicle Use Areas.* Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

(3) *Development Site.* A minimum of 15 percent of the development site shall be landscaped. Landscaping shall meet the Type A standard set forth in SRC Chapter 807. Other required landscaping under the UDC, such as landscaping required for setbacks or vehicle use areas, may count towards meeting this requirement.

**Finding:** The Hearings Officer notes that the Phase 2 McKenzie Heights area of proposed development is split into two sites on the south-western portion of the property.

The western portion of the Phase 2 development site is approximately 378,092 square feet in size, requiring a minimum of 56,714 square feet of landscape area ( $378,092 \times 0.15 = 56,713.8$ ). The site plan indicates that approximately 141,492 square feet (37.4%) of the western portion of the development site will be landscaped, exceeding the minimum requirement.

The eastern portion of the Phase 2 development site is approximately 409,572 square feet in size, requiring a minimum of 61,436 square feet of landscape area ( $409,572 \times 0.15 = 61,435.8$ ). The site plan indicates that approximately 177,394 square feet (43.3%) of the eastern portion of the development site will be landscaped, exceeding the minimum requirement.

The Hearings Officer notes that if, as discussed above, related to Condition of Approval 4, the applicant chooses to utilize the boundaries of the existing approximately 80-acre parent parcel as a legal unit of land for purposes of receiving building permits for the proposed development prior to recording a final partition or subdivision plat, then the entire 80-acre site must comply with the minimum 15 percent standard, or the applicant may request relief from this standard by submitting an application for a future Class 2 Adjustment to the minimum landscape standard. To ensure that the proposal complies with this requirement, the Hearings Officer imposes the following condition of approval:

**Condition 5:** Prior to building permit approval, the applicant shall demonstrate that a minimum of 15 percent of the development site will be landscaped. The applicant may request relief from this standard by submitting a future Class 2 Adjustment.

*SRC 551.015(a) – Design Review:*

Multiple family development shall be subject to design review according to the multiple family design review standards set forth in SRC Chapter 702.

**Finding:** The Hearings Officer notes that the applicant has applied for Class 1 Design Review, demonstrating that the proposed multi-family development is consistent with the multiple family design review standards set forth in SRC Chapter 702. Findings are included in the portion of this decision addressing the Class 1 Design Review.

## **Airport Overlay Zone SRC 602**

Development within the Airport Overlay Zone must comply with the development standards applicable in the underlying zone and the development standards set forth in this section. The development standards in this section are in addition to, and not in lieu of, all other applicable development standards in the underlying zone. Where the development standards in this section conflict with the development standards applicable in the underlying zone or any other overlay zone, the more restrictive development standards shall be the applicable development standard.

*SRC 602.020(a)* – Height. Except as otherwise provided in this chapter, no building, structure, or object shall be erected or increased in height, and no vegetation shall be allowed to grow, to a height in excess of the height limitations set forth in this subsection. If all or part of a lot is located in more than one Airport Overlay Zone area, the applicable height limitation shall be the most restrictive height limitation.

**Finding:** The Hearings Officer finds that the subject property is located in the horizontal surface of the Airport Overlay Zone.

*SRC 602.020(a)(6)* – Horizontal area. In the horizontal area, no building, structure, object or vegetation growth shall have a height greater than that established by a horizontal plane 150 feet above the airport elevation (Airport elevation means an elevation that is 210 feet above mean sea level).

**Finding:** The Hearings Officer notes that under the requirements of the Airport Overlay Zone, building heights shall not project further than 360 feet above mean sea level. The applicant's site plan indicates that the elevation of the property ranges from approximately 254 feet to 398 feet above mean sea level. Due to the existing topography of the property, one or more building will likely exceed the maximum height allowance provided in the Airport Overlay Zone. Final elevations and building heights will be reviewed at the time of building permit to ensure compliance with the height requirements of the Airport Overlay Zone, and in order to ensure compliance with SRC 602, an Airport Overlay Zone Height Variance per SRC Chapter 602 shall be required prior to issuance of any building permit for a building or structure that exceeds the maximum height allowance of the Airport Overlay Zone. To ensure this application complies with this requirement, the Hearings Officer imposes the following condition of approval:

**Condition 6:** An Airport Overlay Zone Height Variance per SRC Chapter 602 shall be required prior to issuance of any building permit for a building or structure exceeding the maximum height allowance of the Airport Overlay Zone.

## **General Development Standards SRC 800**

*SRC 800.055(a) – Applicability.*

Solid waste service area design standards shall apply to all new solid waste, recycling, and compostable services areas, where use of a solid waste, recycling, and compostable receptacle of 1 cubic yard or larger is proposed.

**Finding:** The Hearings Officer notes that the site plan shows one solid waste and recycling service area with a trash compactor will be provided at the southeast corner of the site near the water quality and detention basin. The following is a summary of applicable design standards for the solid waste service area.

*SRC 800.055(b) – Solid Waste Receptacle Placement Standards.*

All solid waste receptacles shall be placed at grade on a concrete pad that is a minimum of 4 inches thick, or on an asphalt pad that is a minimum of 6 inches thick. The pad shall have a slope of no more than 3 percent and shall be designed to discharge stormwater runoff.

- 1) Pad area. In determining the total concrete pad area for any solid waste service area:
  - a. The pad area shall extend a minimum of 1-foot beyond the sides and rear of the receptacle.
  - b. The pad area shall extend a minimum 3 feet beyond the front of the receptacle.
  - c. In situations where receptacles face each other, a minimum four feet of pad area shall be required between the fronts of the facing receptacles.

**Finding:** The Hearings Officer notes that the design and materials for the slab is not indicated in the proposed plans but must be reviewed for conformance with this development standard at the time of building permit review. The proposed enclosure is large enough that the receptacles may face each other with four feet or more of separation provided. To ensure this requirement is satisfied, the Hearings Officer imposes the following condition of approval:

**Condition 7:** Development of the solid waste service areas shall conform to all applicable standards of SRC Chapter 800.

- 2) Minimum Separation.
  - a. A minimum separation of 1.5 feet shall be provided between the receptacle and the side wall of the enclosure.
  - b. A minimum separation of 5 feet shall be provided between the receptacle and any combustible walls, combustible roof eave lines, or building or structure openings.

**Finding:** The Hearings Officer notes that adequate separation distance between receptacles is provided within the enclosure. Receptacles will not be placed within 5 feet of a building or structure.

- 3) Vertical Clearance.
  - a. Receptacles 2 cubic yards or less in size shall be provided with a minimum of 8 feet of unobstructed overhead or vertical clearance for servicing.
  - b. Receptacles greater than 2 cubic yards in size shall be provided with a minimum of 14 feet of unobstructed overhead or vertical clearance for servicing.

**Finding:** The Hearings Officer notes that no roof is proposed for the solid waste enclosure, therefore this standard is not applicable.

*SRC 800.055(c) – Permanent Drop Box and Compactor Placement Standards.*

- 1) All permanent drop boxes shall be placed on a concrete pad that is a minimum of six inches thick. The pad shall have a slope of no more than one percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- 2) All permanent compactors shall be placed on a concrete pad that is structurally engineered or in compliance with the manufacturer specifications. The pad shall have a slope of no more than three percent and shall be designed to discharge stormwater runoff consistent with the overall stormwater management plan for the site approved by the Director.
- 3) Pad area. The pad area shall be a minimum of 12 feet in width. The pad area shall extend a minimum of five feet beyond the rear of the permanent drop box or compactor.
- 4) Minimum separation. A minimum separation of five feet shall be provided between the permanent drop box or compactor and any combustible walls, combustible roof eave lines, or building or structure openings.

**Finding:** The Hearings Officer notes that the design and materials for the slab where the compactor will be placed is not indicated in the proposed plans but will be reviewed for conformance with this development standard at the time of building permit review.

*SRC 800.055(d) – Solid Waste Service Area Screening Standards.*

- 1) Solid waste, recycling, and compostable service areas shall be screened from all streets abutting the property and from all abutting residentially zoned property by a minimum six-foot-tall sight-obscuring fence or wall; provided, however, where receptacles, drop boxes, and compactors are located within an enclosure, screening is not required. For the purpose of this standard, abutting property shall also include any residentially zoned property located across an alley from the property.
- 2) Existing screening at the property line shall satisfy screening requirements if it includes a six-foot-tall sight-obscuring fence or wall.

**Finding:** The Hearings Officer notes that the solid waste service area is completely enclosed and screened from view from surrounding streets and abutting property. The Hearings Officer finds that this satisfies the requirement.

*SRC 800.055(e) – Solid Waste Service Area Enclosure Standards.*

When enclosures are used for required screening or aesthetics, such enclosure shall conform to the following standards:

- 1) Front Opening of Enclosure. The front opening of the enclosure shall be unobstructed and shall be a minimum of 12 feet in width.

**Finding:** The Hearings Officer notes that the enclosure has two openings approximately 12 feet in width. At the time of building permit review the applicant must provide

construction details verifying the front openings are a minimum of 12 feet in width and therefore in compliance with this provision.

- 2) Measures to Prevent Damage to Enclosure. Enclosures constructed of concrete, brick, masonry block, or similar types of material shall contain a minimum four-inch nominal high bumper curb at ground level located 12 inches inside the perimeter of the outside walls of the enclosure, or a fixed bumper rail to prevent damage from receptacle impacts.

**Finding:** The Hearings Officer notes that the design and materials for the enclosure walls, or measures of preventing damage to the enclosure, are not indicated in the application materials but will be reviewed for conformance with this development standard at the time of building permit review.

- 3) Enclosure Gates. Any gate across the front opening of an enclosure shall swing freely without obstructions. For any enclosure opening with an unobstructed width of less than 15 feet, the gates shall open a minimum of 120 degrees. All gates shall have restrainers in the open and closed positions.

**Finding:** The Hearings Officer notes that enclosure gates are less than 15 feet in length, the angle of the swing of the gates is not indicated in the application materials but will be reviewed for conformance with this development standard at the time of building permit review.

*SRC 800.055(f) – Solid Waste Service Area Vehicle Access.*

- 1) Vehicle Operation Area. A vehicle operation area shall be provided for solid waste collection service vehicles that are free of obstructions and no less than 45 feet in length and 15 feet in width. Vehicle operation areas shall be made available in front of every receptacle.

**Finding:** The Hearings Officer finds that the proposed vehicle operation area meets the minimum dimensional requirements for service vehicle access.

**Streets and Right-of-Way Improvements, Connectivity SRC 803**

*SRC 803.030(a) and SRC 803.035(a) – Street Spacing.*

Streets shall have a maximum spacing of 600 feet from right-of-way line to right-of-way line along one axis, and not less than 120 feet and not more than 400 feet from the right-of-way line to right-of-way line along the other axis.

**Finding:** The Hearings Officer finds that pursuant to Condition 24 from PAR 19-12, streets are required through the property, including the two adjacent lots to the east under common ownership (083W13A / 00100 and 00200), at no greater than 600-foot intervals. The applicant has requested alternative street standards showing only one north-south

street connection from Boone Road SE to the southern end of the subject property and one street connection from the area of development leading east towards 36th Avenue SE. With this application, the Hearings Officer is not addressing the request for alternative street standards on the adjacent properties. Future development applications for 083W13A / 00100 and 00200 are subject to the street spacing and connectivity requirements of SRC Chapter 803 and PAR19-12.

### **Off-Street Parking, Loading, and Driveways SRC 806**

#### *SRC 806.005 - Off-Street Parking; When Required.*

Off-street parking shall be provided and maintained for each proposed new use or activity.

#### *SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.*

Required off-street parking shall be located on the same development site as the use or activity it serves.

#### *SRC 806.015 - Amount of Off-Street Parking.*

- a) *Minimum Required Off-Street Parking.* For multi-family residential uses containing 13 or more dwelling units, a minimum of one space is required per studio unit or dwelling unit with one bedroom. A minimum of 1.5 spaces are required per dwelling unit with 2 or more bedrooms.
- b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.
- c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces and falling within the public services and industrial use classifications, and the business and professional services use category, shall designate a minimum of five percent of their total off-street parking spaces for carpool or vanpool parking.
- d) *Maximum Off-Street Parking.* The maximum number of off-street parking spaces shall not exceed 1.75 times the minimum number of spaces required.

**Finding:** The Hearings Officer notes that the proposed multi-family use contains a total of 272 dwelling units.

On the east side of the development site, 150 total apartment units are proposed with 36 of the proposed units are single bedroom, and the remaining 114 units are two and three-bedroom units. A minimum of 207 off-street parking spaces are required for the east side of the proposed development site  $((36 \times 1) + (114 \times 1.5) = 207)$ . The maximum off-street parking allowance is 1.75 times the minimum requirement, or 362 spaces  $(207 \times 1.75 = 362.3)$ . The site plan indicates that 302 spaces are proposed, with 119 of the spaces proposed to be compact.



On the west side of the development site, 60 apartment units and 62 townhome units are proposed all of which contain two or more-bedroom units. A minimum of 183 off-street parking spaces are required for the west side of the proposed development site ( $122 \times 1.5 = 183$ ). The maximum off-street parking allowance is 1.75 times the minimum requirement, or 320 spaces ( $183 \times 1.75 = 320.3$ ). The applicant's statement indicates that a total of 243 spaces are proposed (173 surface parking spaces, 8 garage spaces under Building 13, and 62 garage spaces for the townhomes), with 70 of the spaces proposed to be compact.

Carpool/vanpool parking spaces are not required for multi-family uses. The Hearings Officer finds that the proposal complies with the parking requirements of this section.

*SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.*

- a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to the development of new off-street parking and vehicle use areas.
- b) *Location.* Off-street parking and vehicle use areas shall not be located within required setbacks.
- c) *Perimeter Setbacks and Landscaping.* Perimeter setbacks shall be required for off-street parking and vehicle use areas abutting streets, abutting interior front, side, and rear property lines, and adjacent to buildings and structures.

**Adjacent to Buildings and Structures:** The off-street parking or vehicle use area shall be setback from the exterior wall of the building or structure by a minimum 5-foot-wide landscape strip or by a minimum 5-foot-wide paved pedestrian walkway.

**Finding:** The Hearings Officer notes that as indicated in the setback findings in the IC zone set out earlier in this decision, the vehicle use area setbacks comply with required setbacks abutting streets and interior lot lines. However, the site plan shows off-street parking and vehicle use areas within five feet of proposed garage buildings, which does not comply with minimum setback requirements. To ensure that the proposal satisfies this requirement, the Hearings Officer imposes the following condition of approval:

**Condition 8:** Prior to building permit issuance the applicant shall revise the site plan to comply with the minimum vehicle use area setback requirement to the buildings and structures.

- d) *Interior Landscaping.* Interior landscaping shall be provided in amounts not less than those set forth in Table 806-5. For parking areas less than 50,000 square feet in size, a minimum of 5 percent of the interior parking area shall be landscaped.

A minimum of 1 deciduous shade tree shall be planted for every 12 parking spaces within the off-street parking area. Landscape islands and planter bays shall have a minimum planting area of 25 square feet and shall have a minimum width of 5 feet.

**Finding:** The Hearings Officer notes that pursuant to SRC 702.020(b)(8), multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC Chapter 806; therefore, the Hearings Officer finds that this standard is not applicable.

e) *Off-Street Parking Area Dimensions.* Off-street parking areas shall conform to the minimum dimensions set forth in Table 806-6.

**Finding:** The Hearings Officer finds that the proposed parking spaces, driveway and drive aisle for the off-street parking area meet the minimum dimensional requirements of SRC Chapter 806.

f) *Additional Off-Street Parking Development Standards 806.035(f)-(m).*

**Finding:** The Hearings Officer notes that the proposed off-street parking area is developed consistent with the additional development standards for grade, surfacing, and drainage. Bumper guards and wheel barriers are shown on the proposed site plan.

The parking area striping, marking, signage and lighting shall be consistent with SRC Chapter 806, required compact parking spaces shall be marked and signed per SRC 806.035(k)(2). The subject property abuts residentially zoned property to the south, the landscaping and fencing proposed with this development adequately screen the vehicle use area from abutting residentially zoned property.

## **Bicycle Parking**

*SRC 806.045 - General Applicability.*

Bicycle parking shall be provided and maintained for each proposed new use or activity.

*SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.*

Bicycle parking shall be located on the same development site as the use or activity it serves.

*SRC 806.055 - Amount of Bicycle Parking.*

Per SRC Chapter 806, Table 806-8, multi-family residential uses are required to provide the greater of four spaces or one space per 10 dwelling units.

**Finding:** The Hearings Officer notes that the proposed multi-family use contains a total of 272 dwelling units.

The east side of the development site contains 150 dwelling units requiring a minimum of 15 bicycle parking spaces ( $150 \times 0.1 = 15$ ), and the west side of the development site

contains 60 apartment dwelling units requiring a minimum of six bicycle parking spaces ( $60 \times 0.1 = 6$ ). The site plan indicates that 42 bicycle parking spaces are proposed on the east side of the development site and 12 bicycle parking spaces are proposed on the west side, exceeding the minimum requirements. Secure bicycle parking for townhome units will be contained within the dwelling unit/garage for each unit.

*SRC 806.060 – Bicycle Parking Development Standards.*

- (a) Location. Except as otherwise provided in this section, bicycle parking shall be located outside a building.
  - (1) Bicycle parking located outside a building shall be located within a convenient distance of, and be clearly visible from, the primary building entrance. In no event shall bicycle parking be located more than 50 feet from the primary building entrance, as measured along a direct pedestrian access route.
  - (2) Where bicycle parking cannot be located outside a building, it may be located inside a building within a convenient distance of, and accessible from, the primary building entrance.
- (b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance that is free of obstructions and any barriers, such as curbs or stairs, which would require users to lift their bikes in order to access the bicycle parking area.
- (c) Dimensions. Except as provided in subsection (f) of this section, bicycle parking areas shall meet the following dimension requirements:
  - (1) Bicycle parking spaces. Bicycle parking spaces shall be a minimum of six feet in length and two feet in width with the bicycle rack centered along the long edge of the bicycle parking space. Bicycle parking space width may be reduced, however, to a minimum of three feet between racks where the racks are located side-by-side.
  - (2) Access aisles. Bicycle parking spaces shall be served by a minimum four-foot-wide access aisle. Access aisles serving bicycle parking spaces may be located within the public right-of-way.
- (d) Surfacing. Where bicycle parking is located outside a building, the bicycle parking area shall consist of a hard surface material, such as concrete, asphalt pavement, pavers, or similar material, meeting the Public Works Design Standards.
- (e) Bicycle racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall meet the following standards.
  - (1) Racks must support the bicycle frame in a stable position, in two or more places a minimum of six inches horizontally apart, without damage to wheels, frame, or components.
  - (2) Racks must allow the bicycle frame and at least one wheel to be locked to the rack with a high security, U-shaped shackle lock;
  - (3) Racks shall be of a material that resists cutting, rusting, and bending or deformation; and
  - (4) Racks shall be securely anchored.
  - (5) Examples of types of bicycle racks that do, and do not, meet these standards are shown in Figure 806-10.

**Finding:** The Hearings Officer notes that the site plan shows nine individual bicycle parking pads, each with three staple racks, which provide two bicycle parking spaces each, for a total of 54 bicycle parking spaces. The Hearings Officer finds that the required bicycle parking spaces comply with the development standards of this section for location, access, dimensions, surfacing and bicycle rack standards.

### **Off-Street Loading Areas**

#### *SRC 806.065 - General Applicability.*

Off-street loading areas shall be provided and maintained for each proposed new use or activity.

#### *SRC 806.075 - Amount of Off-Street Loading.*

For multi-family residential uses containing 200 or more dwelling units, a minimum of three loading spaces are required. If a recreation building is provided, at least one of the required loading spaces shall be located in conjunction with the recreation building. Loading spaces shall be a minimum 12 feet in width, 19 feet in length and 12 feet of unobstructed vertical clearance.

**Finding:** The Hearings Officer notes that the proposed 272-unit apartment complex requires a minimum of three off-street loading spaces, a recreation building is not proposed with this phase of development. The Hearings Officer finds that because the proposed site plan indicates that four loading spaces are provided, the proposal is in compliance with all applicable off-street loading development standards of SRC Chapter 806.

### **Landscaping**

All required setbacks shall be landscaped with a minimum of 1 plant unit per 20 square feet of landscaped area. A minimum of 40 percent of the required number of plant units shall be a combination of mature trees, shade trees, evergreen/conifer trees, or ornamental trees. Plant materials and minimum plant unit values are defined in SRC Chapter 807, Table 807-2.

All building permit applications for development subject to landscaping requirements shall include landscape and irrigation plans meeting the requirements of SRC Chapter 807.

**Finding:** The Hearings Officer notes that landscape and irrigation plans will be reviewed for conformance with the requirements of SRC Chapter 807 at the time of building permit application review.

#### *SRC 807.030(d) – Tree Replanting Requirements.*

In addition to the landscaping required under this chapter, when existing trees, as defined under SRC Chapter 808, are proposed for removal from within required setbacks or from a development site, replanting shall be required as provided in this subsection.

Subsection(1) provides that when an existing tree or trees, as defined under SRC chapter 808, within a required setback are proposed for removal, two new trees shall be planted for each tree removed. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5-inch caliper.

Subsection(2) provides that when more than 75 percent of the existing trees, as defined under SRC Chapter 808, on a development site are proposed for removal, two new trees shall be planted for each tree removed in excess of 75 percent. Replanted trees shall be of either a shade or evergreen variety with a minimum 1.5 inches caliper. For purposes of this section, existing trees within vision clearance areas, or within areas to be cleared for required roads, utilities, sidewalks, trails, or stormwater facilities, shall not be counted in the total percentage of trees removed from the development site.

**Finding:** The Hearings Officer notes that the applicant's existing conditions plan indicates that there are 578 trees on the subject property and a total of 135 of the existing trees are proposed for preservation and 443 trees are proposed for removal. Per SRC 807.030(d)(2), 434 trees may be removed ( $578 \times 0.75 = 433.5$ ), but for each tree removed beyond 434, a minimum of two new trees shall be planted in addition to the landscaping required under SRC Chapter 807. Two trees shall be replanted to replace each of the nine trees removed in excess of 75 percent for a total of 18 replacement trees. In addition, trees removed from require setback areas shall require two new trees for each tree removed. At the time of building permit, plans shall be required showing the final lot configuration and confirming the number of trees removed from required setback areas. The Hearings Officer imposes the following condition of approval to ensure that the proposal satisfies this requirement:

**Condition 9:** Per SRC 807.030(d), when more than 75 percent of the existing trees are proposed for removal and when trees are removed from a required setback, a minimum of two replacement trees shall be incorporated into the landscape plan and planted. Replacement trees are in addition to the landscaping required under this chapter.

## **Natural Resources**

*SRC 601 – Floodplain Overlay Zone:* Public Works Hearings Officer has reviewed the Flood Insurance Study and Flood Insurance Rate Maps and has determined that no floodplain or floodway areas exist in the development area of the subject property.

*SRC 808 - Preservation of Trees and Vegetation:* The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 24 inches in diameter at breast height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

There are no riparian areas located on the subject property. There are a total of 27 significant trees identified on this portion of the development site, the applicant indicates that 21 of the significant trees will need to be removed for the proposed development and that six of the significant trees will be preserved. Because significant trees are required to be protected, and there is no exemption provided in Chapter 808 that would allow their removal, the applicant has requested a Chapter 808 Tree Variance to allow for the removal of the 21 significant trees. Findings for the Chapter 808 Tree Variance are included in Section 10 of this report.

All trees designated for preservation shall be marked and protected during construction. Any tree designated for preservation shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of a certificate of final occupancy.

*SRC 809 - Wetlands:* Grading and construction activities within wetlands are regulated by the Oregon Department of State Lands (DSL) and US Army Corps of Engineers. State and Federal wetland laws are also administered by the DSL and Army Corps, and potential impacts to jurisdictional wetlands are addressed through application and enforcement of appropriate mitigation measures.

The Salem-Keizer Local Wetland Inventory shows that there are wetland channels and/or hydric soils mapped on the property. The applicant shall contact the Oregon Department of State Lands to verify if any permits are required for development or construction in the vicinity of the mapped wetland area(s). Wetland notice was sent to the Oregon Department of State Lands pursuant to SRC 809.025.

*SRC 810 - Landslide Hazards:* A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. According to the City's adopted landslide hazard susceptibility maps and SRC Chapter 810 (Landslide Hazards), there are mapped 2-to-3-point landslide hazard areas on the subject property. The proposed activity of a multi-family development adds 2 activity points to the proposal, which results in a total of 4-to-5-points. Therefore, the proposed development is classified as a moderate landslide risk and requires a geological assessment. A Geological Assessment, prepared by Northwest Geological Services, INC. and dated October 17, 2018, was submitted to the City of Salem. This assessment demonstrates the subject property could be developed without increasing the potential for slope hazard on the site or adjacent properties.

## Criterion 2:

The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

**Finding:** The existing condition of Boone Road SE is underimproved for its Street Classification according to the Salem TSP. A half-street improvement to Boone Road SE was required with Phase 1 of the McKenzie Heights Apartments (CU-SPR-ADJ-DAP-DR21-02) and is pending construction. The construction of 32nd Avenue SE within the subject property is also pending construction with Phase 1. Duplication in conditions of approval between Phase 1 and Phase 2 are intended to allow for flexibility in timing among the two phases.

**Condition 10:** Along Boone Road SE from 36th Avenue to 32nd Avenue, construct a minimum 15-foot-wide half-street improvement on the development side and a minimum 15-foot-wide turnpike improvement on the opposite side of the centerline as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. This improvement shall include a reconfiguration of the existing Boone/32nd intersection as described in Exhibit 14 of the TIA submitted for McKenzie Heights Phase 1 (CU-SPR-ADJ-DAP-DR21-02).

**Condition 11:** Construct 32nd Avenue SE from Boone Road SE to 36th Avenue SE in the alignment shown on the applicants preliminary site plan.

The applicant shows a new internal street extending from 32nd Avenue SE to the southern property boundary. This street shall be constructed to Local Street Standards.

**Condition 12:** Construct “A Drive” to Local Street Standards from 32nd Avenue SE to the southern property boundary as shown on the preliminary applicants site plan.

The subject property is located within the Bonaventure Reimbursement District for improvements that were made to Kuebler Boulevard SE. The fee for the reimbursement district is established based on methodology within Resolution No. 2015-17.

**Condition 13:** Pay the Bonaventure Reimbursement District Fee for Kuebler Boulevard Street Improvements pursuant to Resolution No. 2015-17.

The applicant submitted a Traffic Impact Analysis that evaluates the proposed development along with the proposed Industrial Flex Spaces and Storage Units under review (SPR-DAP22-19). The TIA identifies dual northbound left turn lanes on 36th Avenue SE plus two westbound receiving lanes on Kuebler Boulevard SE that extends to the northbound I-5 ramps. The dual northbound left turn lanes need to provide 200 feet of vehicle storage. Widening 36th Avenue SE to accommodate the additional turn lanes may require additional ROW. The north leg of 36th Avenue SE will need to be widened to ensure the lanes line up with the new southern leg lane configuration. Traffic signal poles may need to be relocated to accommodate these improvements.

The existing condition along the frontage of 36th Avenue SE does not meet Minor Arterial standards. A half-street improvement and right-of-way dedication are required along with the require mitigation as described in the applicants TIA.

**Condition 14:** Provide the following traffic mitigation as described in the applicants TIA:

- a. Construct dual northbound left turn lanes on 36th Avenue SE at Kuebler Boulevard SE, and two westbound receiving lanes on Kuebler Boulevard SE from 36th Avenue SE to the northbound I-5 ramps.
- b. Acquire off-site right-of-way as necessary along 36th Avenue SE to accommodate the additional turn lanes.
- c. Modify the north leg of 36th Avenue SE to line up the through lanes.

**Condition 15:** Construct a half-street improvement along the frontage of 36th Avenue SE to Minor Arterial street standards as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803. In lieu of constructing the improvement with this development phase, the applicant may provide a 40-foot-wide temporary construction easement to the City of Salem along the entire frontage of 36th Avenue SE; the easement shall be modified or converted to right-of-way pursuant to PWDS upon completion of the street improvement design along 36th Avenue SE. Along the entire frontage of 36th Avenue SE, dedicate right-of-way on the development side of the centerline to equal a minimum half-width of 36 feet on 36th Avenue SE.

CPC-ZC17-02 limits traffic impacts from future development on the subject property to a maximum of 12,916 average daily trips. The TIA demonstrates that the proposed development does not exceed the trip cap.

Criterion 3:

Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

**Finding:** The driveway access onto “A Drive” and 32nd Avenue SE provide for safe turning movements into and out of the property. The applicant applied for a Class 2 Driveway Approach Permit; findings are below.

Criterion 4:

The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

**Finding:** The applicant is proposing a second phase of development; the McKenzie Heights Apartments Phase 1 was reviewed and approved under CU-SPR-ADJ-DAP-DR21-02. Multiple infrastructure related conditions that will be constructed for Phase 1 will serve



Phase 2. Duplication in conditions of approval between Phase 1 and Phase 2 are intended to allow for flexibility in timing among the two phases.

The water infrastructure in the area is underserved. As a condition of development in the S-1 water service level, the applicant shall be required to construct Water System Master Plan S-1 facilities needed to serve the development, which include Coburn S-1 Reservoir, Boone Road Pump Station, and transmission mains connecting the facilities. Alternatively, a temporary access may be paid for service within the S-1 water service level. The applicant shall construct an 18-inch S-1 water main in 36th Avenue SE from Boone Road SE to the south line of the subject property. 8-inch S-1 water mains are required within the internal streets.

**Condition 16:** Construct an S-1 18-inch water main in 36th Avenue SE from Boone Road SE to the south line of the subject property.

**Condition 17:** Construct a minimum S-1 8-inch water main along proposed 32nd Avenue SE from 36th Avenue SE to A Street SE and in other internal streets pursuant to PWDS.

**Condition 18:** As a condition of development in the S-1 water service level the following options are available:

- a. Pay a temporary access fee of \$180,800 and connect to the existing S-1 water system as a temporary facility pursuant to SRC 200.080(a); or
- b. Construct Water System Master Plan S-1 facilities needed to serve the development, which include Coburn S-1 Reservoir, Boone Road Pump Station, and transmission mains connecting the facilities.

A small portion of the subject property is located in the S-2 water service level. There are no S-2 water mains to serve the proposed development. There are four buildings along the southern property boundary that are within the S-2 water service level. The existing S-1 water system can serve buildings with a maximum first floor elevation of 358-feet. The applicant shall be required to design and construct these buildings with a maximum first floor elevation of 358-feet to allow S-1 water service.

**Condition 19:** The maximum first floor of any structure constructed on the subject property shall not exceed an elevation of 358 feet.

The nearest available sewer facility appears to be located in 36th Avenue SE at the intersection of Kuebler Boulevard SE. As a condition of sewer service, all developments will be required to provide public sewers to adjacent upstream parcels. This shall include the extension of sewer mains in easements or rights-of-way across the property to adjoining properties, and across the street frontage of the property to adjoining properties when the main is located in the street right-of-way. This shall include trunk sewers that are oversized to provide capacity for upstream development (PWDS Sewer Division 003). As a condition of building permit issuance, the applicant shall construct a master plan sewer main in 36th

Avenue SE from Kuebler Boulevard SE to Boone Road SE, and a 12-inch sewer main in 36th Avenue SE from Boone Road SE to the south line of the subject property.

**Condition 20:** Construct a master plan sewer main in 36th Avenue SE from Kuebler Boulevard SE to the south line of the subject property.

**Condition 21:** Construct a 12-inch sewer main from 36th Avenue SE to the southerly terminus of A Drive SE.

No existing parks facilities are available within ½ mile of the subject property. The Comprehensive Parks System Master Plan shows that a future Neighborhood Park (NP 29) is planned on or near the subject property. According to UGA 19-01, the applicant shall either set aside area for a neighborhood park or pay a Temporary Access Fee (TAF).

As a condition of residential use, the applicant has two options for providing park facilities to serve the subject property:

- a) Convey or acquire property for dedication of neighborhood park facility NP-29 or equivalent; or
- b) Pay a temporary access fee of 13.5 percent of the Parks SDCs due for the residential uses.

The applicant's engineer submitted a statement demonstrating compliance with Stormwater PWDS Appendix 004-E(4) and SRC Chapter 71. The preliminary stormwater design demonstrates the use of green stormwater infrastructure to the maximum extent feasible.

**Condition 22:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).

The applicant shall design and construct all utilities (sewer, water, and storm drainage) according to the PWDS and to the satisfaction of the Public Works Director.

## **8. Analysis of Class 2 Adjustment Criteria**

SRC Chapter 250.005(d)(2) provides that an applicant for a Class 2 Adjustment shall be granted if all of the following criteria are met:

### Criterion 1:

The purpose underlying the specific development standard proposed for adjustment is:

- (i) Clearly inapplicable to the proposed development; or
- (ii) Equally or better met by the proposed development.

**Finding:** The applicant is requesting three Class 2 Adjustments to:

- 1) Eliminate the requirement for off-street parking areas to be provided behind or beside a building or structure per SRC 702.020(d)(2) and allow off-street parking areas to be provided between a building and a street.
- 2) Adjust the pedestrian access standards per SRC 702.020(d)(4) and allow an alternative pedestrian pathway to be provided through the interior corridor of a proposed building.
- 3) Increase the maximum building length per SRC 702.020(e)(1) from 150 feet to 162 feet for proposed Building 11.
- 4) Reduce the minimum building setback abutting the RA zoned property to the south from one foot for each foot of building height per SRC 702.020(e)(2) to 20 feet.
- 5) Eliminate the requirement for a minimum of 40 percent of the buildable width to be occupied by buildings placed at the minimum setback per SRC 702.020(e)(4).
- 6) Eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units per SRC 702.020(e)(5) for proposed Building 7.

*Allow an off-street parking area in front of adjacent buildings, instead of behind or beside buildings as required by SRC 702.020(d)(2):*

Most of the site will be developed in compliance with this standard, however the applicant is requesting a Class 2 Adjustment in two locations to allow an off-street parking area to be developed in front of an adjacent building (Building 8) on the east side of “A Drive” and in front of an adjacent building (Building 9) and a townhome on the west side of “A Drive”. The applicant explains that the purpose of the standard is to provide a pedestrian friendly development with buildings located as close as possible to public sidewalks, instead of surface parking areas.

In this case, the applicant indicates that landscaping will be provided between the off-street parking area to help screen the site and enhance the pedestrian experience, reducing the impact of the parking location on the proposed/surrounding uses, therefore equally or better meets the intent of this provision in compliance with this criterion.

*To adjust the pedestrian access standards per SRC 702.020(d)(4) and allow an alternative pedestrian pathway to be provided through the interior corridor of a proposed building:*

Pursuant to SRC 702.020(e)(4), pedestrian pathways shall be provided throughout a development site that connect to and between buildings, common open space, and parking areas and that connect the development to public sidewalks. All buildings within the development have direct pedestrian access onto internal sidewalks, which connect to other buildings, common open space areas, and off-street parking. However, due to site topography, encircling buildings 5 and 6 with pedestrian pathways is not possible, making it difficult to provide connections around these buildings. The applicant has proposed using an interior building corridor for these buildings as part of the common pathway making pedestrian connection on site possible. The proposal equally or better meets the intent of

this provision by providing an alternative pedestrian connection on a site with challenging terrain and is therefore in compliance with this criterion.

*Increase the maximum building length per SRC 702.020(e)(1) from 150 feet to 162 feet for proposed Building 11:*

Proposed building 11 exceeds the 150-foot maximum building length allowance. The applicant is requesting a Class 2 Adjustment to allow this building to have a maximum length of approximately 162 feet.

The applicant indicates that the purpose of the maximum building length standard is to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets. While the proposed building exceeds the maximum length, visual design elements added to the buildings such as dormers, off-sets, contrasting building materials and balconies will break up the mass of the building. Longer building lengths will not require large cuts or fill and will work better with the natural grade of the site.

The proposal equally or better meets the intent of this provision and is therefore in compliance with this criterion.

*To eliminate the requirement for a minimum of 40 percent of the buildable width to be occupied by buildings placed at the minimum setback per 702.020(e)(4):*

The minimum building setback requirement in the IC zone is 5 feet adjacent to a street and pursuant to SRC 702.020(e)(4), a minimum of 40 percent of the buildable width shall be occupied by buildings placed at the minimum setback line. The applicant is requesting a Class 2 Adjustment to place buildings at a 20-foot setback adjacent to all streets.

The applicant indicates that locating buildings at the minimum 5-foot setback line is not feasible for this development because it would conflict with the required 10-foot public utility easements along the streets. In addition, the minimum setback for multi-family developments in multi-family residential zoning designations where this design standard would typically be found is 20 feet. The proposed setback increase would allow for a multi-family development that is similar in appearance from the street to other complexes in the City, the applicant further indicates the larger setback will provide more room for landscaping.

The applicant is requesting to reduce the buildable width standard from 40 percent to 37 percent along the northeast side of the "A Drive" frontage. The buildable width along this portion of "A Drive" is approximately 491 feet, the site plan indicates that approximately 186 feet of the buildable width will be occupied. The applicant is requesting the adjustment because due to required parking and the location of proposed driveways, no additional buildings could be provided along the setback line.

The applicant is also requesting to reduce the buildable width standard from 40 percent to 34 percent along the western portion of the “A Drive” frontage. The buildable width along this portion of “A Drive” is approximately 626 feet, the site plan indicates that approximately 217 feet of the buildable width will be occupied. The applicant is requesting the adjustment because due to required parking and the location of proposed driveways, no additional buildings could be provided along the setback line.

The Hearings Officer finds that the proposal equally or better meets the intent of this provision and is therefore in compliance with this criterion.

*To eliminate the direct pedestrian access to adjacent sidewalk requirement for ground level units per 702.020(e)(5) for proposed Building 7.*

The applicant is requesting to eliminate the requirement to orient buildings to the street and provide direct pedestrian pathways from the public sidewalk to ground floor units. The applicant explains that the buildings are oriented inwards towards the site, but will be visually appealing including windows, offsets, and architectural features facing the street.

The applicant explains that due to the slope of the property and the need for a retaining wall between Building 7 and A Drive, direct pedestrian access to ground level units is not possible for this building, however Building 7 does have access to the interior pedestrian network for the site which connects out to the public sidewalk. The proposal equally or better meets the intent of this provision and is therefore in compliance with this criterion.

With the conditions of approval imposed above, the Hearings Officer finds that the proposal satisfies Criterion 1 from this standard.

#### Criterion 2:

If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.

**Finding:** The Hearings Officer notes that the subject property abuts residential zoning and uses, and the proposal is for multi-family residential development. However, the subject property is located within the IC (Industrial Commercial) zone; therefore, the Hearings Officer finds that this criterion is not applicable.

#### Criterion 3:

If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

**Finding:** The Hearings Officer notes that six separate Class 2 Adjustments have been requested with this development. Each of the adjustments has been evaluated separately for conformance with the Adjustment approval criteria. The Hearings Officer finds that the

cumulative impact of the adjustments results in an overall project which is consistent with the intent and purpose of the zoning code.

Any future development, beyond what is shown in the proposed plans, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action. To ensure that the proposal satisfies this criterion, the Hearings Officer imposes the following condition of approval:

**Condition 23:** The adjusted development standards, as approved in this zoning adjustment, shall only apply to the specific development proposal shown in the attached site plan. Any future development, beyond what is shown in the attached site plan, shall conform to all applicable development standards of the UDC, unless adjusted through a future land use action.

## **9. Analysis of Class 2 Driveway Approach Permit Criteria**

Salem Revised Code (SRC) 804.025(d) sets forth the following criteria that must be met before approval can be granted to an application for a Driveway Approach Permit.

### Criterion 1:

The proposed driveway approach meets the standards of this Chapter and the Public Works Design Standards.

**Finding:** The Hearings Officer finds that the proposed driveway meets the standards for SRC Chapter 804 and Public Works Design Standards (PWDS).

### Criterion 2:

No site conditions prevent placing the driveway approach in the required location.

**Finding:** The Hearings Officer finds that there are no site conditions prohibiting the location of the proposed driveway.

### Criterion 3:

The number of driveways onto an arterial is minimized.

**Finding:** The Hearings Officer finds that the proposed driveway is not accessing an arterial street.

### Criterion 4:

The proposed driveway approach, where possible:

- a) Is shared with an adjacent property; or

b) Takes access from the lowest classification of street abutting the property.

**Finding:** The Hearings Officer finds that the proposed driveway is currently located so that it will take access to the lowest classification of street abutting the subject property.

Criterion 5:

The proposed driveway approach meets vision clearance standards.

**Finding:** The Hearings Officer finds that the proposed driveway meets the PWDS vision clearance standards set forth in SRC Chapter 805.

Criterion 6:

The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access.

**Finding:** The Hearings Officer notes that no evidence has been submitted to indicate that the proposed driveway will create traffic hazards or unsafe turning movements. Additionally, staff analysis of the proposed driveway indicates that it will not create a traffic hazard and will provide for safe turning movements for access to the subject property. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 7:

The proposed driveway approach does not result in significant adverse impacts in the vicinity.

**Finding:** The Hearings Officer notes the staff analysis of the proposed driveway and the evidence that has been submitted which indicate that the location of the proposed driveway will not have any adverse impacts to the adjacent properties or streets. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 8:

The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections.

**Finding:** The Hearings Officer finds that the proposed driveway approach is located on a future Local street and does not create a significant impact to adjacent streets and intersections.

Criterion 9:

The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

**Finding:** The Hearings Officer notes that the proposed development is adjacent to residentially zoned property along the southern property boundary. The proposed development abuts State Highway and Collector streets. The proposed driveway is taken from the lowest classification street abutting the subject property. The driveway balances the adverse impacts to residentially zoned property and will not have an adverse effect on the functionality of the adjacent streets. The Hearings Officer finds that the proposal satisfies this criterion.

## **10. Analysis of Tree Regulation Variance Criteria**

Salem Revised Code (SRC) 808.045(d) sets forth the following criteria that must be met before approval can be granted to a request for a Tree Regulation Variance. In this case, the applicant has requested to address the Hardship criteria in SRC 808.045(d)(1).

### Criterion 1:

There are special conditions that apply to the property which create unreasonable hardships or practical difficulties which can be most effectively relieved by a variance.

**Finding:** The Hearings Officer notes that the applicant indicates that there are 27 significant trees (Oregon white oaks with a diameter at breast height of 24" or greater) located on the subject property and that of the 27 significant trees, six are proposed to be preserved and 21 are proposed for removal. Trees that are designated for removal are within areas of right-of-way for future street extension, footprints for proposed buildings, vehicle accessways, and off-street parking areas, and within areas required for site grading. In order to develop the site as permitted in the IC zone, removal of the 21 significant trees could not be avoided, creating a hardship to reasonable development of the property. The applicant's statement further addresses the reason for removal of each individual tree. The Hearings Officer concurs with the findings and conclusions of the applicant that an unreasonable hardship and practical difficulty is created on the site due to topography, location of significant trees and the likelihood of the mature trees surviving once development is completed, so that in order to develop this site as allowed in the IC zone, the removal of the 21 significant trees could not be avoided. The Hearings Officer finds that the proposal satisfies this criterion.

### Criterion 2:

The proposed variance is the minimum necessary to allow the otherwise lawful proposed development of activity.

**Finding:** The Hearings Officer notes that the applicant is requesting to remove 21 of the 27 total significant trees on the subject property and will be preserving six significant trees.



The applicant has identified the reason for removal for each of the individual significant trees and is only proposing removal of a significant tree when necessary to allow for the development of the property.

To mitigate for the loss of 21 significant trees, a minimum of two replacement Oregon white oaks shall be incorporated into the landscape design and replanted for each significant tree removed. The replacement Oregon white oaks shall have a minimum two-inch caliper at the time of planting. The Hearings Officer notes the applicant's explanation at the public hearing that the replacement Oregon white oaks have a much greater likelihood of survival than matures oaks subjected to the construction process. To ensure that this criterion is satisfied, the Hearings Officer imposes the following condition of approval:

**Condition 24:** A minimum of two replacement Oregon White Oaks shall be replanted for each significant tree removed and incorporated into the landscape design for this development. Replanted trees shall have a minimum two-inch caliper.

## **11. Analysis of Class 1 Design Review Criteria**

Salem Revised Code (SRC) 225.005(e)(1) provides that a Class 1 Design Review application shall be approved if all of the applicable design review standards are met.

### **Development Standards – Multiple Family Design Review Standards SRC 702**

SRC 702.020 - Design review standards for multiple family development with thirteen or more units.

(a) Open space standards.

- (1) To encourage the preservation of natural open space qualities that may exist on a site and to provide opportunities for active and passive recreation, all newly constructed multiple family developments shall provide a minimum 30 percent of the gross site area as designated and permanently reserved open space. For the purposes of this subsection, the term "newly constructed multiple family developments" shall not include multiple family developments created through only construction or improvements to the interior of an existing building(s). Indoor or covered recreation space may count toward this open space requirement.

**Finding:** The Hearings Officer notes that the proposed development occurs on a portion of the subject property that is approximately 18.08 acres in size, excluding future right-of-way split between two development sites.

The east side is approximately 9.4 acres in size (409,572 square feet) and requires a minimum of 122,872 square feet ( $409,572 \times 0.3 = 122,871.6$ ) of open space, including indoor or covered recreation space. Per the applicant's statement, 177,394 square feet of

open space is provided on the east side of the development site, including a sports court and tot lot, exceeding the minimum open space requirement.

The west side is approximately 8.68 acres in size (378,092 square feet) and requires a minimum of 113,428 square feet ( $378,092 \times 0.3 = 113,427.6$ ) of open space, including indoor or covered recreation space. Per the applicant's statement, 141,492 square feet of open space is provided on the west side of the development site, exceeding the minimum open space requirement. The Hearings Officer finds that the proposal meets the requirements of this standard.

- (A) To ensure usable open space that is of sufficient size, at least one common open space area shall be provided within the development that is at least 1,000 square feet in size, plus an additional 250 square feet for every 20 units, or portion thereof, over 20 units and has a minimum dimension of 25 feet for all sides.

**Finding:** The Hearings Officer notes that the proposed multi-family development contains 272 dwelling units; with 150 dwelling units proposed on the east side of the development site and 122 dwelling units proposed on the west side of the development site. Per Table 702-3 the 150-unit development site requires a minimum open space area that is 2,750 square feet in size with no dimension less than 25 feet. The site plan indicates a sports court 2,000 square feet in size and a children's play area 900 square feet in size will be provided on the eastern portion of the site. Per SRC 702.020(a)(1)(A), these areas may be counted twice toward the total amount of required open space, exceeding the minimum standards.

Per Table 702-3 the 122-unit development site requires a minimum open space area that is 2,250 square feet in size with no dimension less than 25 feet. The site plan indicates a recreation area 3,000 square feet in size will be provided on the western portion of the site, exceeding the minimum standard. The Hearings Officer finds that the proposal meets this standard.

- (B) To ensure the provided open space is usable, a maximum of 15 percent of the common open space shall be located on land with slopes greater than 25 percent.

**Finding:** The Hearings Officer notes that the open space plan provided by the applicant indicates that 23,169 square feet of open space area occurs on slopes exceeding 25 percent, less than the maximum standard. Therefore, the Hearings Officer finds that the proposal meets this requirement.

- (C) To allow for a mix of different types of open space areas and flexibility in site design, private open space, meeting the size and dimension standards set forth in Table 702-4, may count toward the open space requirement. All private open space must meet the size and dimension standards set forth in Table 702-4.

**Finding:** The Hearings Officer notes that the applicant indicates that most units will have private open space. Ground floor units will have patio areas and upper floors will have balconies/decks that meet minimum dimensional standards. The Hearings Officer finds that the proposal satisfies this standard.

- (D) To ensure a mix of private and common open space in larger developments, private open space, meeting the size and dimension standards set forth in Table 702-4, shall be provided for a minimum of 20 percent of the dwelling units in all newly constructed multiple family developments with 20 or more dwelling units. Private open space shall be located contiguous to the dwelling unit, with direct access to the private open space provided through a doorway.

**Finding:** The Hearings Officer notes that the applicant indicates that most units will have private open space. Ground floor units will have patio areas and upper floors will have balconies/decks that meet minimum dimensional standards. The Hearings Officer finds that the proposed private open space areas comply with the minimum size requirements of Table 702-4.

- (E) To encourage active recreational opportunities for residents, the square footage of an improved open space area may be counted twice toward the total amount of required open space, provided each such area meets the standards set forth in this subsection. Example: a 750-square-foot improved open space area may count as 1,500 square feet toward the open space requirement.
- (i) Be a minimum 750 square feet in size with a minimum dimension of 25 feet for all sides; and
  - (ii) Include at least one of the following types of features:
    - a. Covered pavilion.
    - b. Ornamental or food garden.
    - c. Developed and equipped children's play area, with a minimum 30-inch-tall fence to separate the children's play area from any parking lot, drive aisle, or street.
    - d. Sports area or court (e.g., tennis, handball, volleyball, basketball, soccer).
    - e. Swimming pool or wading pool.

**Finding:** The Hearings Officer notes that the applicant's open space plan indicates that two recreational opportunities will be provided on the eastern side of the development site, a children's play area and a sports area. However, even using the reductions allowed by this section, the proposed open space area does not comply with the minimum standard established under SRC 702.020(a)(1)(A) and must be increased prior to building permit approval.

- (F) To encourage proximity to and use of public parks, the total amount of required open space may be reduced by 50 percent for developments that are located within one-quarter mile of a publicly owned urban, community, or neighborhood park as

measured along a route utilizing public or private streets that are existing or will be constructed with the development.

**Finding:** The Hearings Officer notes that the applicant has met the minimum open space requirement without using the reduction offered in this section; therefore, the Hearings Officer finds that this standard is not applicable.

(b) Landscaping standards.

(1) To encourage the preservation of trees and maintain or increase tree canopy, a minimum of one tree shall be planted or preserved for every 2,000 square feet of gross site area.

**Finding:** The Hearings Officer notes that the applicant's written statement, open space plan, landscape plans and proposed subdivision provide conflicting sizes for the subject property. Depending on the source, the subject property ranges in size from approximately 787,664 square feet to 811,764 square feet in size requiring a minimum of up to 406 trees ( $811,764 / 2,000 = 405.9$ ). The applicant's landscape plan indicates that a total of 153 existing trees will remain and that a total of 319 new trees will be planted for the development site for a total of 472 existing and new trees (excluding street trees), exceeding the minimum standard. The Hearings Officer finds that the proposal satisfies this standard.

(2) Where a development site abuts property that is zoned Residential Agricultural (RA) or Single Family Residential (RS), a combination of landscaping and screening shall be provided to buffer between the multiple family development and the abutting RA or RS zoned property. The landscaping and screening shall include the following:

(A) A minimum of one tree, not less than 1.5 inches in caliper, for every 30 linear feet of abutting property width; and

(B) A minimum six-foot tall, decorative, sight-obscuring fence or wall. The fence or wall shall be constructed of materials commonly used in the construction of fences and walls, such as wood, stone, rock, brick, or other durable materials. Chain-link fencing with slats shall not be allowed to satisfy this standard.

**Finding:** The Hearings Officer notes that the subject property abuts property zoned RA to the south. The applicant has previously requested an adjustment to the screening standard to the southern property line (ADJ21-03). The adjustment simply deferred the requirement for the installation to later phase of development. With this development proposal for Phase 2 of the McKenzie Heights apartments, the applicant will be installing fencing and landscaping in compliance with this standard.

The Hearings Officer notes that if the applicant chooses to utilize the boundaries of the existing approximately 80-acre parent parcel as a legal unit of land for purposes of receiving building permits for the proposed development, prior to recording a final

partition or subdivision plat, then the entire southern boundary of the 80-acre site must comply with this screening standard where it abuts the RA zoned property, or the applicant may request relief from this standard by submitting a future Class 2 Adjustment application to this screening standard. To ensure that the proposal meets these requirements of this standard, the Hearings Officer imposes the following condition of approval:

**Condition 25:** Prior to building permit approval, the applicant shall demonstrate that applicable screening standards as required by SRC 702.020(b)(2) are met adjacent to RA zoned property to the South of the site. The applicant may request relief from this standard by submitting a future Class 2 Adjustment.

- (3) To define and accentuate primary entryways, a minimum of two plant units, shall be provided adjacent to the primary entryway of each dwelling unit, or combination of dwelling units.

**Finding:** The Hearings Officer notes that the landscaping plan provided indicates at least two plant units will be installed at each shared entrance. The Hearings Officer finds that the proposal meets this standard.

- (4) To soften the visual impact of buildings and create residential character, new trees shall be planted, or existing trees shall be preserved, at a minimum density of ten plant units per 60 linear feet of exterior building wall. Such trees shall be located not more than 25 feet from the edge of the building footprint.

**Finding:** The Hearings Officer notes that the landscaping plan provided indicates at least ten plant units of trees per 60 linear feet of exterior building wall are to be planted within 25 feet on each side of the proposed buildings. The Hearings Officer finds that this meets the standard.

- (5) Shrubs shall be distributed around the perimeter of buildings at a minimum density of one plant unit per 15 linear feet of exterior building wall.

**Finding:** The Hearings Officer notes that the landscaping plan provided indicates at least one plant unit of shrubs per 15 linear feet are to be planted on each side of the proposed buildings. The Hearings Officer finds that this meets the standard.

- (6) To ensure the privacy of dwelling units, ground level private open space shall be physically and visually separated from common open space with perimeter landscaping or perimeter fencing.

**Finding:** The Hearings Officer notes that according to the applicant's written statement and landscape plan, all private open space located contiguous to the dwelling unit will be screened with five-foot tall landscaping ensuring privacy for private open space areas. The Hearings Officer finds that this meets the standard.

(7) To provide protection from winter wind and summer sun and to ensure trees are distributed throughout a site and along parking areas, a minimum of one canopy tree shall be planted along every 50 feet of the perimeter of parking areas. Trunks of the trees shall be located within ten feet of the edge of the parking area (see Figure 702-3).

(A) A minimum of one canopy tree shall be planted within each planter bay.

(B) A landscaped planter bay a minimum of nine feet in width shall be provided at a minimum spacing of one for every 12 spaces. (see Figure 702-3).

**Finding:** The Hearings Officer notes that the parking area on the east side contains a total of 302 off-street parking spaces. The landscaping plan indicates at least 26 planter bays, nine feet in width and each with a canopy tree, will be provided on the east side. A minimum of one canopy tree is provided every 50 feet around the perimeter of the parking areas in compliance with this standard.

The parking area on the west side contains a total of 157 surface off-street parking spaces. The landscaping plan indicates at least 15 planter bays, nine feet in width and each with a canopy tree, will be provided on the west side. A minimum of one canopy tree is provided every 50 feet around the perimeter of the parking areas in compliance with this standard.

(8) Multiple family developments with 13 or more units are exempt from the landscaping requirements in SRC Chapter 806.

**Finding:** The Hearings Officer notes that the proposal includes more than thirteen units; therefore, the Hearings Officer finds that this development is exempt from the landscaping requirements of SRC Chapter 806.

(c) Site safety and security.

(1) Windows shall be provided in all habitable rooms, other than bathrooms, on each wall that faces common open space, parking areas, and pedestrian paths to encourage visual surveillance of such areas and minimize the appearance of building bulk.

(2) Lighting shall be provided that illuminates all exterior dwelling unit entrances, parking areas, and pedestrian paths within the development.

(3) Fences, walls, and plant materials shall not be installed between street-facing dwelling units and public or private streets in locations that obstruct the visibility of dwelling unit entrances from the street. For purposes of this standard, the term "obstructed visibility" means the entry is not in view from the street along one-half or more of the dwelling unit's frontage.

(4) Landscaping and fencing adjacent to common open space, parking areas, and dwelling unit entryways shall be limited to a maximum height of three feet to encourage visual surveillance of such areas.

**Finding:** The Hearings Officer notes that the floor plans and elevations indicate that windows are provided in habitable rooms on each wall that faces common open space, parking areas, or pedestrian pathways, in compliance with this standard. The preliminary

site plan indicates that exterior lighting (pole lights a maximum of 14 feet tall, and post lights a maximum of 5 feet tall) will be provided along pedestrian paths and adjacent to vehicle use areas, lighting will also be provided on building exteriors. According to the site plan and landscaping plan, there are no fences near the entryways or common open space.

(d) Parking and site design.

(1) To minimize large expanses of continuous pavement, parking areas greater than 6,700 square feet in area shall be physically and visually separated with landscaped planter bays that are a minimum of nine feet in width. Individual parking areas may be connected by an aisle or driveway (see Figure 702-3).

**Finding:** The Hearings Officer notes that the applicant indicates that there are no parking areas greater than 6,700 square feet in size. Planter bays a minimum of nine feet in width, and each planted with a canopy tree, have been provided throughout the development site to minimize large expanses of continuous pavement, in compliance with this standard.

(2) To minimize the visual impact of on-site parking and to enhance the pedestrian experience, off-street surface parking areas and vehicle maneuvering areas shall be located behind or beside buildings and structures. Off-street surface parking areas and vehicle maneuvering areas shall not be located between a building or structure and a street.

**Finding:** The Hearings Officer notes that the applicant has requested an adjustment to this standard to allow off-street parking areas to be provided adjacent to "A" Drive in front of the nearest building. On the east side, an off-street parking area is provided in front of proposed Building 8 and on the west side, off-street parking areas are provided in front of proposed Building 9, and in front of proposed townhome buildings. Findings for the Adjustment can be found in the portion of this decision addressing the adjustment.

(3) Where a development site abuts, and is located uphill from, property zoned Residential Agriculture (RA) or Single Family Residential (RS), and the slope of the development site within 40 feet of the abutting RA or RS zoned property is 15 percent or greater, parking areas shall be set back not less than 20 feet from the property line of the abutting RA or RS zoned property to ensure parking areas are designed to consider site topography and minimize visual impacts on abutting residential properties.

**Finding:** The Hearings Officer notes that the subject property abuts RA zoned property to the south. However, the subject property is located on the downhill side and all off-street parking areas are setback more than 40 feet from the RA zoned property, therefore, the Hearings Officer finds that this standard is not applicable.

- (4) To ensure safe pedestrian access to and throughout a development site, pedestrian pathways shall be provided that connect to and between buildings, common open space, and parking areas, and that connect the development to the public sidewalks.

**Finding:** The Hearings Officer notes that sidewalks are shown connecting the development site to proposed public sidewalks along “A” Drive, between buildings, and connecting to the common open space. However, due to topography on the east side, a direct pedestrian connection is not provided between proposed Buildings 1-4 and the abutting amenities, and proposed Buildings 5-8 and those abutting amenities. The applicant has requested an adjustment to this standard to allow for an alternative pedestrian pathway to be provided through the interior corridor of proposed buildings 5 and 6 that serves as a connection between downhill and uphill portions of the eastern site. Findings for the Adjustment can be found in the portion of this decision addressing the adjustment.

(e) Façade and building design.

- (1) To preclude long monotonous exterior walls, buildings shall have no dimension greater than 150 feet.

**Finding:** The Hearings Officer notes that with the exception of Building 11, all proposed buildings have no dimension exceeding 150 feet in length, in compliance with this standard. The applicant has requested an adjustment to increase the maximum building length for proposed Building 11 to 162 feet. Findings for the Adjustment can be found in the portion of this decision addressing the adjustment.

- (2) Where a development site abuts property zoned Residential Agricultural (RA) or Single Family Residential (RS), buildings shall be setback from the abutting RA or RS zoned property as set forth in Table 702-5 to provide appropriate transitions between new buildings and structures on-site and existing buildings and structures on abutting sites.

(A) A 5-foot reduction is permitted to each required setback in Table 702-5 provided that the height of the required fence in Sec. 702.015(b)(1)(B) is increased to eight feet tall.

**Finding:** The Hearings Officer notes that the subject property abuts property zoned RA to the south. The applicant has requested an Adjustment to reduce the minimum building setback abutting an RA zone from one foot for each foot of building height, to 20 feet. Findings for the Adjustment can be found in the portion of this decision addressing the requested adjustment.

- (3) To enhance compatibility between new buildings on site and abutting residential sites, balconies located on building facades that face RA or RS zoned properties, unless separated by a street, shall have fully sight-obscuring railings.



**Finding:** The Hearings Officer notes that the proposed townhouse units abutting the southern property line do not appear to include balconies located on the building facades facing towards the abutting RA zoned property; therefore, the Hearings Officer finds that this standard is not applicable.

- (4) On sites with 75 feet or more of buildable width, a minimum of 40 percent of the buildable width shall be occupied by building placed at the setback line to enhance visual interest and activity along the street. Accessory structures shall not apply towards meeting the required percentage.

**Finding:** The Hearings Officer notes that the applicant has requested an adjustment to eliminate the requirement for buildings to be placed at the minimum 5-10-foot setback line, rather the applicant is proposing to set the buildings back approximately 20 feet adjacent to "A" Drive and for buildings placed along the setback line to occupy approximately 34 percent of the buildable width. Findings for the Adjustment can be found in the portion of this decision addressing the adjustment.

- (5) To orient buildings to the street, any ground-level unit, cluster of units, or interior lobbies, or portions thereof, located within 25 feet of the property line abutting a street shall have a building entrance facing the street, with direct pedestrian access to the adjacent sidewalk.

**Finding:** The Hearings Officer notes that each of the proposed buildings located within 25 feet of the property line abutting a street will have direct pedestrian access to the adjacent sidewalk except for proposed Building 7. The applicant has requested an adjustment to eliminate the requirement for proposed Building 7 to have direct pedestrian access to the adjacent sidewalk. Findings for the Adjustment can be found in the portion of this decision addressing the adjustment.

- (6) A porch or architecturally defined entry area shall be provided for each ground level dwelling unit. Shared porches or entry areas shall be provided to not more than four dwelling units. Individual and common entryways shall be articulated with a differentiated roof, awning, stoop, forecourt, arcade or portico.

**Finding:** The Hearings Officer notes that covered entry areas are provided at each of the primary entrances for the dwelling units. The Hearings Officer finds that the proposal is in compliance with this standard.

- (7) Roof-mounted mechanical equipment, other than vents or ventilators, shall be screened from ground level view. Screening shall be as high as the top of the mechanical equipment and shall be integrated with exterior building design.

**Finding:** The Hearings Officer notes that the applicant indicates that roof mounted equipment will be screened and integrated into the building design. The Hearings Officer finds that the proposal is in compliance with this standard.

(8) To reinforce the residential character of the neighborhood, flat roofs, and the roof ridges of sloping roofs, shall not exceed a horizontal length of 100 feet without providing differences in elevation of at least four feet in height. In lieu of providing differences in elevation, a cross gable or dormer that is a minimum of four feet in length may be provided.

**Finding:** The Hearings Officer notes that the applicant indicates that each of the buildings does not have long flat roof lines. The buildings each have offsets, dormers, and elevation changes that break up the appearance of the roof line. The Hearings Officer finds that the proposal is in compliance with this standard.

(9) To minimize the appearance of building bulk, each floor of each building's vertical face that is 80 feet in length or longer shall incorporate one or more of the design elements below (see examples in Figure 702-5). Design elements shall vary from other wall surfaces by a minimum of four feet and such changes in plane shall have a minimum width of six feet.

- (A) Offsets (recesses and extensions).
- (B) Covered deck.
- (C) Covered balcony.
- (D) Cantilevered balcony, provided at least half of its depth is recessed.
- (E) Covered entrance.

**Finding:** The Hearings Officer notes that according to the applicant's written statement and proposed building elevation plans; building offsets, covered decks, recessed balconies and covered entrances will be incorporated into the design for each building. The Hearings Officer finds that the proposal is in compliance with this standard.

(10) To visually break up the building's vertical mass, the first floor of each building, except for single-story buildings, shall be distinguished from its upper floors by at least one of the following (see examples in Figure 702-6):

- (A) Change in materials.
- (B) Change in color.
- (C) Molding or other horizontally-distinguishing transition piece.

**Finding:** The Hearings Officer notes that according to the applicant's written statement and building elevation plans, the first floor of each building will have contrasting building materials and colors, as well as using horizontally distinguishing transition pieces to visually break up the mass of each building. The Hearings Officer finds that the proposal is in compliance with this standard.

## DECISION

Based upon the Facts and Findings contained in the staff report and its attachments, the staff presentation and public testimony, the Hearings Officer APPROVES the request for

a conditional use, site plan review, adjustments, driveway approach permit, tree regulation variance, and design review collective applications for the proposed development of a 272-unit multi-family residential apartment complex for property approximately 27 acres in size and located at the 3200 Block of Boone Road SE, subject to the following conditions of approval:

**CONDITIONAL USE:**

- Condition 1:** Prior to issuance of building permit, the applicant shall demonstrate that in coordination with Salem Keizer Public Schools, a safe accessible bus transportation route shall be provided for the proposed development. This may be accomplished by either 1) completing a street connection to 36th Avenue SE that accommodates school buses; 2) by providing sidewalks along Boone Road SE and on 36th Avenue SE connecting to a school bus stop to be located on 36th Avenue SE; or 3) the applicant may coordinate an alternative plan with Salem Keizer Public Schools to ensure a safe bus route is provided for this development.
- Condition 2:** Prior to issuance of building permit, the applicant shall coordinate with Salem Keizer Public Schools and Cherriots to provide bus pullouts and a covered shelter to be used by school buses as well as the transit district. These improvements may be complete with Phase 1 of the McKenzie Heights apartments.
- Condition 3:** The multi-family use for Phase 2 McKenzie Heights shall contain no more than 272-dwelling units.

**SITE PLAN REVIEW:**

- Condition 4:** The final plat for Partition Case No. PAR19-12, or the final plat for Phased Subdivision Tentative Plan Case No. SUB22-04 shall be recorded prior to issuance of any civil site work or building permits. Alternatively, civil site work or building permits may be issued without recording a final partition or subdivision plat if the applicant files correction deeds with Marion County reverting the existing units of land back to their last known legal configuration.
- Condition 5:** Prior to building permit approval, the applicant shall demonstrate that a minimum of 15 percent of the development site will be landscaped. The applicant may request relief from this standard by submitting a future Class 2 Adjustment.
- Condition 6:** An Airport Overlay Zone Height Variance per SRC Chapter 602 shall be required prior to issuance of any building permit for a building or

structure exceeding the maximum height allowance of the Airport Overlay Zone.

- Condition 7:** Development of the solid waste service areas shall conform to all applicable standards of SRC Chapter 800.
- Condition 8:** Prior to building permit issuance the applicant shall revise the site plan to comply with the minimum vehicle use area setback requirement to the buildings and structures.
- Condition 9:** Per SRC 807.030(d), when more than 75 percent of the existing trees are proposed for removal and when trees are removed from a required setback, a minimum of two replacement trees shall be incorporated into the landscape plan and planted. Replacement trees are in addition to the landscaping required under this chapter.
- Condition 10:** Along Boone Road SE from 36th Avenue to 32nd Avenue, construct a minimum 15 foot-wide half-street improvement on the development side and a minimum 15 foot wide turnpike improvement on the opposite side of the centerline as specified in the City Street Design Standards and consistent with the provisions of SRC Chapter 803.
- This improvement shall include a reconfiguration of the existing Boone/32nd intersection as described in Exhibit 14 of the TIA submitted for McKenzie Heights Phase 1 (CU-SPR-ADJ-DAP-DR21- 02).
- Condition 11:** Construct 32nd Avenue SE from Boone Road SE to 36th Avenue SE in the alignment shown on the applicants preliminary site plan.
- Condition 12:** Construct “A Drive” to Local Street Standards from 32nd Avenue SE to the southern property boundary as shown on the preliminary applicants site plan.
- Condition 13:** Pay the Bonaventure Reimbursement District Fee for Kuebler Boulevard Street Improvements pursuant to Resolution No. 2015-17.
- Condition 14:** Provide the following traffic mitigation as described in the applicants TIA:
- a. Construct dual northbound left turn lanes on 36th Avenue SE at Kuebler Boulevard SE, and two westbound receiving lanes on Kuebler Boulevard SE from 36th Avenue SE to the northbound I-5 ramps.
  - b. Acquire off-site right-of-way as necessary along 36th Avenue SE to accommodate the additional turn lanes.

- c. Modify the north leg of 36th Avenue SE to line up the through lanes.

**Condition 15:** Construct a half-street improvement along the frontage of 36th Avenue SE to Minor Arterial street standards as specified in the City Street

Design Standards and consistent with the provisions of SRC Chapter 803. In lieu of constructing the improvement with this development phase, the applicant may provide a 40-foot-wide temporary construction easement to the City of Salem along the entire frontage of 36th Avenue SE; the easement shall be modified or converted to right-of-way pursuant to PWDS upon completion of the street improvement design along 36th Avenue SE. Along the entire frontage of 36th Avenue SE, dedicate right-of-way on the development side of the centerline to equal a minimum half-width of 36 feet on 36th Avenue SE.

**Condition 16:** Construct an S-1 18-inch water main in 36th Avenue SE from Boone Road SE to the south line of the subject property.

**Condition 17:** Construct a minimum S-1 8-inch water main along proposed 32nd Avenue SE from 36th Avenue SE to A Street SE and in other internal streets pursuant to PWDS.

**Condition 18:** As a condition of development in the S-1 water service level the following options are available:

- a. Pay a temporary access fee of \$180,800 and connect to the existing S-1 water system as a temporary facility pursuant to SRC 200.080(a); or
- b. Construct Water System Master Plan S-1 facilities needed to serve the development, which include Coburn S-1 Reservoir, Boone Road Pump Station, and transmission mains connecting the facilities.

**Condition 19:** The maximum first floor of any structure constructed on the subject property shall not exceed an elevation of 358 feet.

**Condition 20:** Construct a master plan sewer main in 36th Avenue SE from Kuebler Boulevard SE to the south line of the subject property.

**Condition 21:** Construct a 12-inch sewer main from 36th Avenue SE to the southerly terminus of A Drive SE.

**Condition 22:** Design and construct a storm drainage system at the time of development in compliance with Salem Revised Code (SRC) Chapter 71 and Public Works Design Standards (PWDS).