

September 23, 2024



Hearings Officer
City of Salem
555 Liberty Street SE
Salem, OR 97301

RE: City of Salem Case No.: WGP-SUB-SPR-ADJ-DAP24-01 – Applicant’s Suggested Revisions to Staff Recommended Conditions of Approval and Facts and Findings

Hearings Officer:

Please accept this letter as Applicant’s response to the Facts and Findings and Conditions of Approval included in the City’s staff report for the September 25, 2024, public hearing regarding the consolidated application package for The Cannery, City Case File No. WGP-SUB-SPR-ADJ-DAP24-01.

Applicant sincerely appreciates Staff’s thorough analysis of the subject application and is in general agreement with staff’s findings and recommended conditions of approval. Included below are Applicant’s suggested revisions to selected conditions of approval and primarily for the purpose of clarifying the intent of said conditions and where Applicant believes that minor revisions may help alleviate confusion during project implementation.

Applicant’s suggested revisions to selected conditions of approval, along with our justification for each revision, are included below.

1. Conditions of Approval

Condition 1: *The colors for Buildings 3, ~~4, 5,~~ and ~~56~~ shall be from within the ~~green and/or brown natural earth or leaf tone~~ color palettes.*

Response: Per SRC 600.025(d), buildings within the Willamette Greenway Overlay Zone are required to be “screened, colored, or surfaced so as to blend with the riparian area. Colors shall be natural earth or leaf tones.” Natural earth and leaf tones, as is the explicit language in this standard, includes oranges (changing colors of fall leaves along the riparian corridor), blacks, whites, and grays (rocks and minerals, flowering native riparian vegetation, light reflection on the water, etc.), and is more broad than the green and brown color palette limitation included in Staff’s recommendation. Therefore, this condition is suggested to be revised as marked above.

Condition 6: *Prior to final plat approval, ~~required right-of-way dedications and~~ required easements shall be free and clear of encumbrances and liens unless an adjustment to SRC 200.050(d) is approved.*

Response: Right-of-way dedication is not required at this time so strike the language marked above. Furthermore, required easements for utilities and additional infrastructure may change during construction. We suggest removing this condition altogether as easements when

dedicated and right-of-way dedication (if required for rail approval or Shipping street improvements) will be required to adhere to SRC 200.050.

Condition 8: *Prior to final plat approval or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), construct a private sanitary sewer collection system internal to the development to serve Lots 1 through 4, pursuant to SRC 802.040, and provide an easement ~~and that benefits lots 1 through 4 with~~ agreement for maintenance of the system pursuant to SRC 802.040(c)(2), unless a public sewer is approved by the Public Works Director.*

Response: Revision to clarify that the easement is for the benefit of Lots 1-4.

Condition 10: *If approved by the Public Works Director, the applicant shall, at the time of development ~~Lot of~~ Lots 5 or 6, convert the exiting public main within Lots 5 and 6 to a private collection system, pursuant to SRC 802.040, and provide an easement and agreement for maintenance of the system pursuant to SRC 802.040(c)(2), unless a public sewer is required by the Public Works Director.*

Response: Grammatical revision for clarity.

Condition 12: *Prior to final plat approval, all ~~necessary (existing and proposed)~~ access and utility easements must be shown and recorded on the final plat.*

Response: Recommend removing proposed access and utility easements from the plat due to the high likelihood that the plat will record prior to the associated access and utility improvements being made. As such, it is likely that easements created prior to the completion of such improvements would be incorrectly located. The requested solution is to record any access and utility easements for planned access and utilities after they are constructed and via a separate legal easement instrument.

Condition 13: *Prior to ~~final plat approval~~ **final occupancy**, dedicate easements for all ~~existing and proposed~~ public utility (water, sewer, stormwater) infrastructure on the site to current standards in Public Works Design Standards Section 1.8 (Easements).*

Response: Revised to address and provide flexibility of constructed locations of utilities vs. dedicated easement locations.

Condition 15: *Prior to final plat approval or delayed pursuant to an improvement agreement per SRC 205.035(c)(7)(B), the applicant shall design and construct street improvements along Front Street NE. The required improvements shall consist of one of the following options. The final design shall be approved by the Public Works Director, the Portland and Western Railroad (PNWR), the Burlington-Northern Santa Fe Railroad (BNSF), and documented with an ODOT Rail Crossing Order. If the final design is not in substantial conformance with the options listed below, **and if such changes necessitate revisions to the approved site plan**, the applicant shall submit a modification to the Tentative Subdivision Plan and/or Site Plan Review approvals, **as appropriate**.*

- a) *Option 1 (Half-Street Improvement with Right-in/Right-out only Movement). The improvement shall be as shown in the preliminary concept for Option 1, as provided in Attachment J, and include:*
1. *Construct a half street improvement along Front Street NE from the Mill Creek Bridge northerly to Shipping Street NE. The improvements shall include a 13-foot-wide southbound travel lane; on-street parking; curbs, street lighting; and a 5-foot-wide sidewalk and/or a minimum 10-foot-wide multi-use path.*
 2. *Along the Portland and Western Railroad, construct an ~~interim~~ improvement along the west side of the tracks that includes a raised median along the entire property frontage from the Mill Creek bridge to Shipping Street NE. The raised median shall limit all access points to right-in/right-out only.*
 3. *Construct ADA crosswalks at the intersections of Market Street NE, Gaines Street NE, and Hood Street NE. The crosswalks shall include ADA accessible ramps on both sides of Front Street NE, Rapid Rectangular Flashing Beacons at each crossing, appropriate signing, and a fence placed on top of the raised median to control pedestrian crossing locations. The specific locations of the crossings shall be dependent upon the decision of BNSF to keep or remove the existing railroad spur line that is located between Hood Street NE and Gaines Street SE.*
 4. *All driveway approaches serving the site shall be limited to right-in/right-out movements; the applicant shall submit a revised and rescoped Traffic Impact Analysis evaluating the traffic movements that would be rerouted on the transportation system due to the driveways being limited to right-in/right-out movement; and any off-site mitigation identified within the revised and rescoped Traffic Impact Analysis, including those that affect any railroad crossings, shall be constructed.*
- b) *Option 2: (Full Street Improvement with Full Movement). The improvement shall be as shown in the preliminary concept for Option 2, as provided in Attachment K, and include:*
1. *Construct a full width street improvement along both sides of Front Street NE from the Mill Creek bridge northerly to South Street NE as shown in preliminary concept plan.*
 2. *The full width street improvements include, but are not limited to:*
 - a. *Construct a full street improvement along both sides of Front Street NE including a 13-foot-wide travel lane in both directions, curb, bike lane, sidewalk and/or a multi-use path, on-street parking, and street lighting.*
 - b. *Along the Portland and Western Railroad, construct a raised median along both sides of the track from the Mill Creek bridge to South Street NE including railroad crossing arms at the public street intersections of Market Street NE, Gaines Street NE, Hood Street NE, and Norway Street NE as identified in the preliminary concept plan.*

- c. Construct ADA crosswalks at the intersections of Market Street NE, Gaines Street NE, and Hood Street NE. The crosswalks shall include ADA accessible ramps on both sides of Front Street NE, Rapid Rectangular Flashing Beacons at each crossing, appropriate signing, and a fence placed on top of the raised medians to control pedestrian crossing locations. The specific locations of the crossings shall be dependent upon the decision of BNSF to keep or remove the existing railroad spur line that is located between Hood Street NE and Gaines Street NE.

Response: Revise introduction to provide flexibility to only require modification to land use applications where the approved site plan and/or subdivision may be affected by recommended changes to the Front Street improvement following the final Rail Diagnostic. Remove “interim” to make it clear that following option 1, the project will have completed all project related responsibility of the Front Street Improvements.

Condition 16: *Prior to final plat approval **or delayed pursuant to a developer’s agreement**, the applicant shall work directly with franchise utility companies and provide **a plan or any** easements necessary to serve the subdivision with franchise utility services.*

Response: Obtaining final PGE easement locations or other utility locations for a site development project typically do not occur until each utility has completed their design and the infrastructure has been constructed. Including these easements on the final plat approval for a site development project is a sequencing challenge.

Condition 18: *Prior to submittal of building permits for any lot within the proposed subdivision, the developer shall provide a final report from a geotechnical engineer that describes construction monitoring activities for **each individual building lot all site earthwork** and addresses the geotechnical considerations ~~for each individual building lot~~.*

Response: Grammatical adjustment to ensure clarity that the geotechnical report should address the construction monitoring for those lots that are proposed for development and not all lots at one time.

Condition 23: ***Applicant’s plans include new buildings on Lots 1, 2, and 3 with appurtenances, such as awnings and upper-level balconies, that would encroach into the Public right-of-way. Staff is generally supportive of such encroachments, but the City requires that an encroachment permit be applied for and approved prior to allowing an encroachment.*** Prior to issuance of building permits for the mixed-use buildings located on proposed Lots 1, 2, and 3, the applicant shall obtain a Revocable License to Encroach into the right-of-way for the proposed balconies and awnings that project into the public right-of-way pursuant to SRC 76.160.

Response: Applicant would like to limit the uncertainty regarding the City’s future approval of this encroachment request, which if denied, would require a potential substantial modification to the approved site plan.

Condition 28: *The final subdivision plat shall be recorded prior to issuance of any building permits, including permits for civil site work for proposed development on each lot. The City acknowledges that Applicant may record the final plat ahead of the completion and approval of all required City infrastructure and private improvements pursuant to an improvement agreement as established in SRC 205.035(c)(7). Recordation of the final plat is not necessary prior to the issuance of Erosion Control, Clearing and Grubbing, and Public Works permits.*

Response: Clarify that Applicant may bond for public and private improvements to allow plat recordation ahead of the completion of public and private improvements. Civil site work permits are necessary for items outlined in previous conditions that must be constructed prior to final plat. Remove statement that civil site work permit can't be issued prior to final plat to avoid sequencing conflict.

2. Facts and Findings

During Applicant's initial due diligence efforts regarding the subject property, City of Salem Development Services Staff provided the attached letter outlining SDC Credit eligibility for future development and in recognition of existing impacts generated from prior use of the property. Applicant requests that this letter be added to the record and acknowledged in staff's findings to facilitate future discussions regarding SDC credit eligibility.

We appreciate your consideration of this request.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC



Zach Pelz, AICP
3700 River Road N, Suite 1
Keizer, OR 97303
(503) 400-6028 | pelzz@aks-eng.com

Cc: Bryce Bishop, City of Salem

Attachments:

Public Works SDC Summary Letter (August 3, 2018)



Public Works Department

555 Liberty Street SE / Room 325 • Salem OR 97301-3513 • Phone 503-588-6211 • Fax 503-588-6025

August 3, 2018

Michael Poissant, PE
AKS Engineering & Forestry, LLC
4300 Cherry Avenue NE
Keizer OR 97303

**SUBJECT: Public Works SDC Summary
“Project Osprey” – 1000 to 1400 Block of Front Street NE, Salem**

Dear Mr. Poissant:

Per your request, City staff has investigated the existing development for the purpose of estimating System Development Charge (SDC) exemptions available pursuant to SRC 41.150(a)(6) for the redevelopment of the properties encompassing the proposed “Project Osprey.”

The properties considered in this analysis are shown in the attached Exhibit A, and are listed with the following Property Tax Identifications in the Marion County Maps:

| | |
|---------------|---------------|
| 073W22AA05000 | 073W22AB00900 |
| 073W22AA12100 | 073W22AB01100 |
| 073W22AA12200 | 073W22AC01100 |
| 073W22AA12300 | 073W22AC01200 |
| 073W22AB00300 | 073W22AC01300 |
| 073W22AB00600 | 073W22AC01400 |

The City of Salem collects SDCs for Parks, Transportation, Water, Sewer, and Stormwater. The City Council adopts the system development charge fee structure and policies each fiscal year. This analysis is based upon the fiscal year 2017/2018. The basis for fee SDC collection/exemption is as follows:

- Parks is based on the number of residential dwelling units.
- Transportation is based on the average daily vehicle trips.
- Stormwater is based on impervious surface area.
- Water/Sewer are based on water meter size.

**Transportation and Utility
Operations**

1410 20th Street SE / Building 2
Salem OR 97302-1209
Phone 503-588-6063
Fax 503-588-6480

Parks Operations

1460 20th Street SE / Building 14
Salem OR 97302-1209
Phone 503-588-6336
Fax 503-588-6305

**Willow Lake Water Pollution
Control Facility**

5915 Windsor Island Road N
Keizer OR 97303-6179
Phone 503-588-6380
Fax 503-588-6387

Michael Poissant, PE, AKS Engineering

August 3, 2018

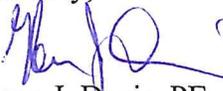
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The following is a summary of the SDC exemptions available for properties described above upon redevelopment based on current SDC amounts. Please refer to Exhibit B for an additional detailed analysis of the SDC exemptions.

- Parks \$0.00
- Transportation: \$251,933.44
- Stormwater: \$95,291.95
- Water/Sewer: \$630,588.00

Please note that the SDC exemption amounts are approximate and will vary based on the SDC fees in place at the time of redevelopment. Feel free to contact me if you have any questions.

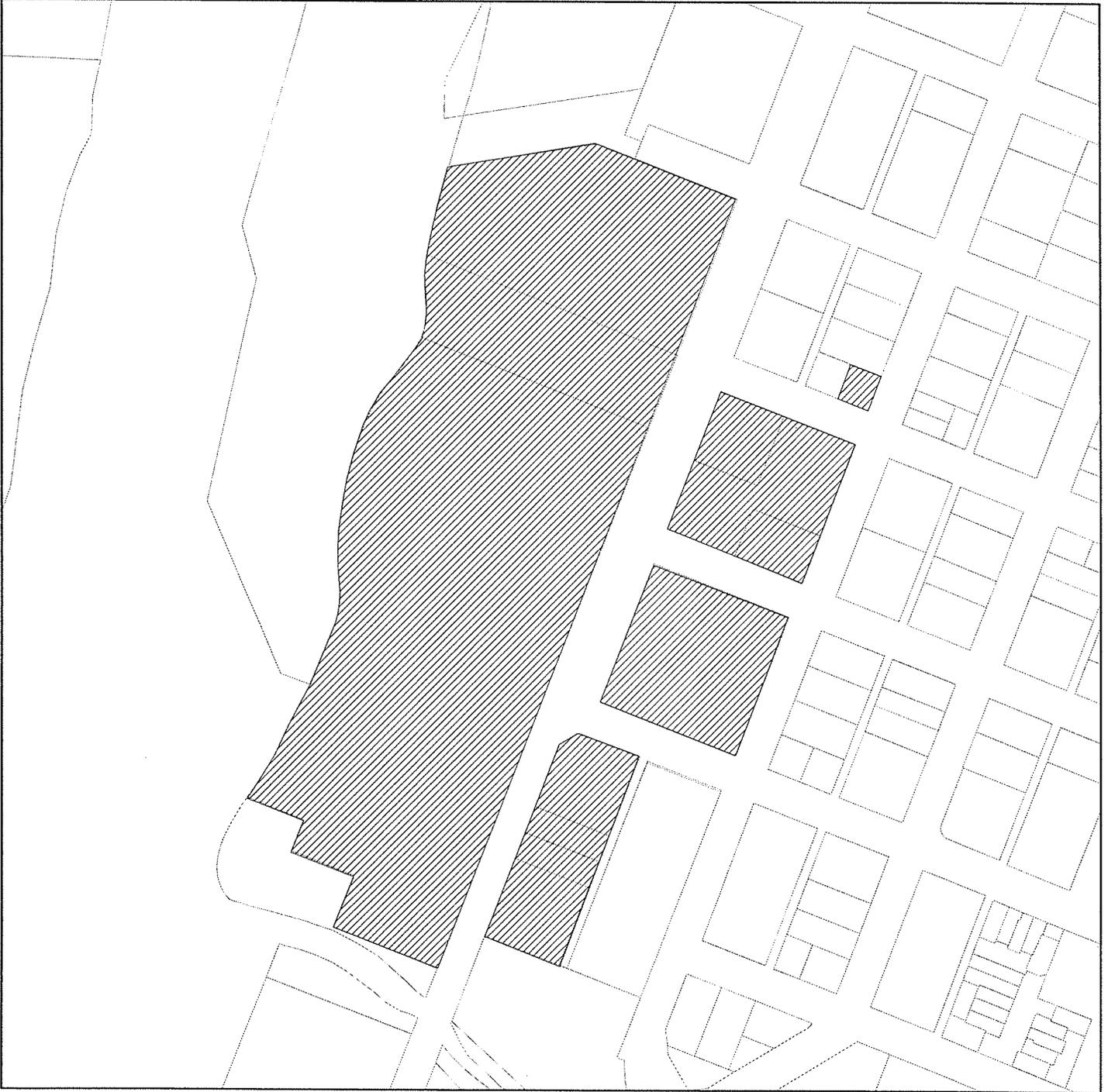
Sincerely,



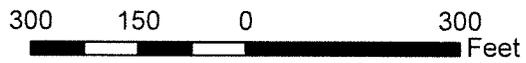
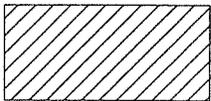
Glenn J. Davis, PE, CFM
Chief Development Engineer

Prepared by: Curt Pellatz, Program Manager
cc: File

EXHIBIT A



"PROJECT OSPREY"
SITE



SCALE: 1' = 300'

