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April 2, 2025

## LAND USE APPLICATION - COMPLETENESS REVIEW

### Project Information

Subject Property:	255 College Drive NW
Reference Number:	25-105401-PLN
Application Type:	Class 2 Site Plan Review
Date Application Accepted:	March 6, 2025
Applicant:	Life Church
Contact:	Andrew Foster <a href="mailto:andyf@comcast.net">andyf@comcast.net</a>

### Staff Contact

Land Use Planner:	Jamie Donaldson, Planner III <a href="mailto:jdonaldson@cityofsalem.net">jdonaldson@cityofsalem.net</a> / 503-540-2328
Infrastructure Planner:	Laurel Christian, Infrastructure Planner III <a href="mailto:lchristian@cityofsalem.net">lchristian@cityofsalem.net</a> / 503-584-4632

### Land Use Review Comments

**Prior to deeming your applications complete, modifications and/or additional information must be provided to address items detailed below.**

**Applicant should provide a response in the last column for each item or indicate if the item is not being provided. Items not addressed or provided may result in conditions of approval or denial of the land use application.**

Your application, which is incomplete, will be deemed complete upon receipt of one of the following:

- (1) All of the missing information.
- (2) Some of the missing information and written notice from you (the applicant) that no other information will be provided.
- (3) Written notice from you (the applicant) that none of the missing information will be provided.

**You have 180 days (September 2, 2025) from the date the application was first submitted (March 6, 2025) to respond in one of the three ways listed above, or the application will be deemed void.**

The Salem Revised Code may be accessed online at the following location:

<https://www.cityofsalem.net/Pages/salem-revised-code.aspx>

### **Completeness Review Items**

**Submittal Requirements** – The following items have been identified as required material to be provided by the application(s) prior to deeming the application “complete”:

<b>Submittal Requirement</b>	<b>Description</b>	<b>Applicant Response</b> <i>i.e. Written Response, Submitted, Not Providing</i>
<b>Complete Application</b>	The application form must be signed by the applicant(s), property owner(s), and/or duly authorized representative(s). If the applicant and/or property owner is a Limited Liability Company (LLC), a list of all members of the LLC must be provided with your land use application.  Please provide an application signed by a designated representative with the authority to sign on behalf of the property owner LIFE CHURCH.	
<b>Signing Authority</b>	Please also provide the corporation’s bylaws or relevant board resolutions naming individuals with authority to sign on behalf of the property owner LIFE CHURCH.	
<b>Recorded Deed</b>	A copy of the recorded deed/land sales contract for the existing units of land is required.	
<b>TGE Form</b>	A <a href="#">Trip Generation Estimate (TGE) form</a> must be completed by the applicant and submitted with the application to determine whether a Transportation Impact Analysis is required.	
<b>Summary Table</b>	A summary table shall be submitted which identifies the zoning designation for the subject property; total site area; gross floor area by use; building height; itemized number of full size, compact, and handicapped parking stalls, and the collective total number; total lot coverage proposed, including areas to be paved for parking and sidewalks.	
<b>Grading Plan</b>	A preliminary grading plan is required when grading of the subject property is necessary to accommodate the proposed development per <a href="#">SRC 220.005</a> (e)(1)(D) & (e)(2)(A). The grading plan will also support the stormwater management requirements, as listed below.	
<b>Stormwater Management</b>	It is unclear from the submitted plans whether or not the proposal meets the definition of a large project pursuant to <a href="#">SRC 70.005</a> . The applicant shall submit a written finding regarding the definition of large project and new/replaced impervious surfaces pursuant to <a href="#">SRC 70.005</a> . If the proposal meets the definition of a large project the applicant shall provide a storm drainage system that provides treatment and flow control as required by the <a href="#">PWDS</a> .  <b>The stormwater management design shall include all unpermitted areas which will either remain or be paved.</b> Gravel subject to vehicular traffic is considered an impervious surface per SRC Chapter 70.	
<b>Landslide Hazards</b>	There are mapped 2-point landslide hazard points on the property within the parking area scope of work. Excavation or fill, as an independent activity, exceeding 2 feet in depth	

	or 25 cubic yards of volume, is a 3-point activity. The applicant's engineer shall provide a statement as to whether or not the grading activity meets this definition. If so, a geotechnical report would be required per <a href="#">SRC Chapter 810</a> , and a Class 3 Site Plan Review would be triggered.	
<b>Utility Plan</b>	The application shall include a preliminary utility plan pursuant to <a href="#">SRC 220.005(e)(1)(E)</a> . There are existing public utilities located on the property that shall be shown on the overall site plan.	
<b>Easements</b>	The applicant shall include all easements located on the site pursuant to <a href="#">SRC 220.005(e)(1)(A)(xi)</a> .	
<b>Driveway Approach Permit</b>	If any changes to the existing driveway approaches are necessary to comply with the standards listed below, a Class 2 Driveway Approach Permit would be required meeting the requirements described in <a href="#">SRC 804.025</a> .	

### **Advisory Comments**

**Items of Concern** - The following items are not listed in the SRC as specific requirements for a complete application; however, are advisories that address areas of concern on the application. **Failure to address advisory comments could result in condition of approval or denial of the application(s).**

<b>Item</b>	<b>Description</b>	<b>Applicant Response</b> <i>i.e. Written Response, Submitted, Not Providing</i>
<b>Application Review</b>		
<b>Compliance Issues</b>	A pre-application conference was conducted in 2020 (PRE-AP20-90) which notified the applicant of the compliance issues for the subject property, which do not appear to have been addressed, and shall now be addressed with this application. The Planning Summary for PRE-AP20-90 is attached hereto as <u>Attachment 1</u> for reference.	
<b>Nonconforming Church Use</b>	PRE-AP20-90 indicated the property was lawfully established as an elementary school, and has since changed the use of the property to a church without the appropriate approvals and permits. By itself, the church is not a lawfully established nonconforming use and was required to vacate the property or submit an application for a Comprehensive Plan Amendment and Zone Change. No such application was submitted; however, the zoning of the property was changed by the City through the Our Salem project in August 2022, to a zone that allows religious assembly uses as a Special Use, subject to <a href="#">SRC 700.055</a> .  Our records show there are series of building permits that tried to establish the new church occupancy, but were cancelled due to not providing the site plan review required to establish a new use. Therefore, the current site plan review application will need to address the change of use and conformance with the special use standards in order to allow any improvements to the development site.	

<b>Unpermitted Gravel Parking</b>	<p>Temporary gravel parking was approved in 1999 (CU99-1) for the area identified in Exhibit 1 of the decision, attached hereto as <u>Attachment 2</u>. The area has since been paved and improved to meet standards, which means the other gravel parking area on site was created without permits and is an unpermitted expansion of an unlawfully established use. <b>The gravel parking area shall be removed and/or gated to cease use of the unpermitted area, including the parking added to along the gravel driveway, until such time that the area can be paved and brought up to parking lot standards. If the gravel area is to remain or is to be paved, stormwater standards of SRC Chapter 71 would apply and require stormwater management and treatment for the impervious area.</b></p> <p>Considering the issues with the unpermitted gravel parking areas and those identified with the ADA parking location with this proposal, the applicant should consider redesigning their parking lot(s) to accommodate parking areas that meet code and maximum parking requirements, per <a href="#">SRC Chapter 806</a>.</p>	
<b>Conditional Use Permit</b>	Pursuant to <a href="#">SRC 700.005(d)</a> , a project may only deviate from the Special Use standards in SRC Chapter 700 through conditional use approval as provided in <a href="#">SRC Chapter 240</a> , and not through an adjustment or variance. The special use standards are reviewed further below.	
<b>Class 3 SPR</b>	The addition of another land use application, such as a Conditional Use Permit or Class 2 Adjustment, consolidated with the current application requires that the site plan review is processed as a Class 3 Site Plan Review, and all submittal requirements for a Class 3 SPR under <a href="#">SRC 220.005(e)</a> are required.	
<b>Zoning Adjustments</b>	If any development standard cannot be met, other than the special use standards in SRC Chapter 700, an Adjustment to the standard may be requested. The applicant shall pay the applicable fee(s) and submit written findings that demonstrate how the request meets the criteria under <a href="#">SRC 250.005</a> .	
<b>Chapter 700 – Special Use Standards</b>		
<b>Use – RS Zone</b>	The current zoning of the property is RS (Single Family Residential) Zone, which allows Religious Assembly as a Special Use, subject to <a href="#">SRC 700.055</a> . Please address the change of use with this proposal to bring the property into conformance and allow development to continue.	
<b>Seating Capacity</b>	Table 700-4 indicates that religious assembly uses in the RS zone shall have a maximum seating capacity of 375 persons. Maximum seating capacity cannot be modified through conditional use approval. Please indicate the seating capacity of the largest space within the church, pursuant to SRC 700.055(c).	
<b>Local Street Access</b>	Pursuant to SRC 700.055(e), Table 700-5, only one access point is allowed for religious assemblies in the RS	

	zone. A Conditional Use Permit would be required to adjust this standard.	
<b>Maximum Lot Area</b>	Pursuant to SRC 700.055(f), Table 700-6, there is a maximum lot size of two acres for religious assemblies in the RS zone. A Conditional Use Permit would be required to adjust this standard.	
<b>Setbacks</b>	<p>Pursuant to SRC 700.055(g), Table 700-7, there is a minimum 12-foot setback for vehicle use areas abutting a street for religious assemblies in the RS zone.</p> <p>Additionally, the property appears to be subject to a special setback along the curve where the parking improvements are proposed, as indicated in the Special Setback comment below. Pursuant to <a href="#">SRC 800.040(c)</a>, setbacks shall apply in addition to other setbacks required under the UDC, and shall be measured from the special setback line. The proposed changes to the vehicle use area require conformance with the required setback, from the special setback. Due to the proximity of the street and the safety of vehicles on site and on the road, an adjustment to this standard would not be supported.</p>	
<b>Off-Street Parking</b>	Pursuant to SRC 700.055(i)(2), off-street parking areas shall be screened from abutting residential zoned property as provided in <a href="#">SRC Chapter 806</a> .	
<b>Landscape</b>	Pursuant to SRC 700.055(j), all lot area not developed for buildings, structures, sports fields, parking, loading, or driveways shall be landscaped as provided in <a href="#">SRC Chapter 807</a> .	
<b>Chapter 800 – General Standards</b>		
<b>Special Setback</b>	<p>College Drive NW is classified as a local street, which requires a 60-foot-wide right-of-way per <a href="#">SRC Chapter 803</a>. According to SRC 800.040, the property is subject to a special setback equal to 30-feet from the centerline of College Drive NW. All setbacks shall be measured from the special setback line per <a href="#">SRC 800.040(c)</a>.</p> <p>Per SRC 800.040(d) and (e) parking may be permitted in the special setback with a removal agreement if the parking area is developed in conformance with the setback and landscaping requirements set forth in SRC Chapter 806.</p>	
<b>Pedestrian Connections</b>	Pursuant to <a href="#">SRC 800.065</a> , pedestrian connections are required between building entrances and adjacent streets, between buildings on the same development site, and through off-street parking areas. Changes to the parking area require conformance with this section, and shall be demonstrate conformance on the plans.	
<b>Chapter 806 – Off-Street Parking, Loading, and Driveways</b>		
<b>Maximum Parking</b>	Any added parking beyond what was last approved for the site, is subject to the maximum parking standards for religious assemblies per <a href="#">SRC 806.015(a)</a> , Table 806-1, including the unpermitted gravel parking areas.	

<b>Parking Area Access &amp; Maneuvering</b>	Per <a href="#">SRC 806.035</a> (f), off-street parking areas shall be designed so that vehicles enter and exit the street in a forward motion with no backing or maneuvering within the street. As indicated above, an adjustment to this standard would not be supported in order to ensure safe and convenient vehicular access and maneuvering. The applicant should consider redesigning their parking lot(s) to accommodate parking areas that meet the applicable standards of the SRC and Chapter 806.	
<b>Surfacing</b>	Per <a href="#">SRC 806.035</a> (h), parking and vehicle use areas are required to be paved with a hard surface material; except for gravel off-street parking areas, approved through a conditional use permit. The gravel parking areas on site do not have a conditional use permit permitting them, and are required to be remedied as indicate above.	
<b>Bicycle Parking</b>	Please indicate the amount of bicycle parking required and provided, and the proposed bike rack locations and details, including spacing dimensions and bike rack design, that illustrate compliance with the standards set forth in <a href="#">SRC 806.060</a> , including surfacing and access requirements.	

## Attachments:

1. PRE-AP20-90 Planning Summary
2. CU99-1 Site Plan





## Pre-Application Report

Community Development Department  
Planning Division

555 Liberty Street SE/Room 305  
Phone: 503-588-6173  
[www.cityofsalem.net/planning](http://www.cityofsalem.net/planning)  
 [@Salem\\_Planning](https://twitter.com/Salem_Planning)

**Case Number / AMANDA No.** PRE-AP 20-90 20-115345-PA

**Conference Date** October 15, 2020

**Applicant** Life Church  
Attn: Don Finley  
255 and 375 College Drive NW  
Salem, OR 97304  
[donf@lifechurchsalem.com](mailto:donf@lifechurchsalem.com)

**Representative** TKP Engineering LLC  
Attn: Tory Plum, PE  
P.O. Box 374  
Corvallis, OR 97339  
[troy@tkpeng.net](mailto:troy@tkpeng.net)

**Case Manager** Sally Long, [silong@cityofsalem.net](mailto:silong@cityofsalem.net) – 503.540.2311

Pre-Application Conference Required: ☐ Yes ☒ No

Project Description & Property Information	
<b>Project Description</b>	A pre-application conference to discuss development of an approximately 10,000 square foot community center and outdoor event area on the northern portion of the subject property to support activities for an existing church, for property approximately 11.05 acres in size.
<b>Property Address</b>	255 and 375 College Drive NW - 97304
<b>Assessor's Map and Tax Lot Number</b>	Polk County Assessor's Map and Tax Lot Numbers: 073W29AC / 5500 and 073W29DB / 1300
<b>Existing Use</b>	Religious Assembly
<b>Neighborhood Association</b>	West Salem Neighborhood Association
<b>Adjacent Neighborhood Association</b>	N/A
<b>Comprehensive Plan Map Designation</b>	CSE (Community Service Education)
<b>Zoning</b>	PE (Public and Private Education)
<b>Overlay Zone</b>	N/A
<b>Urban Service Area</b>	The subject property is located inside the City's Urban Service Area.
<b>Urban Renewal Area</b>	N/A

<b>Past Land Use Actions</b>	<p>Conditional Use Case No. CU99-1: Granted approval for an unpaved parking lot within 500 feet of an “R” district (SRC Chapter 133.200(b)) in a PE zone.</p> <p>Resolution No. PC99-5: Affirmed the Hearings Officer decision of April 16, 1999 and granted Conditional Use Case No. 99-1 subject to SRC Chapters 130 and 160 and nine conditions of approval (<b>Attachment 1</b>).</p>
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## Planning Division Comments

### Proposal

The proposal includes the development of an approximately 10,000 square foot community center and outdoor event area to support activities for an existing church, with associated site improvements including parking, utilities, storm water infrastructure, ADA accessibility, and landscaping, for property approximately 11.05 acres in size, zoned PE (Public and Private Education) and located at 255 and 375 College Drive NW - 97304 (Polk County Assessor's Map and Tax Lot Numbers: 073W29AC / 5500 and 073W29DB / 1300).

### Specific Questions

#### ***Planning***

1. The subject property is zoned PE (Public and Private Educational Services) and churches are not a permitted use in the PE zone. Would a zone change be required for this proposed development?

**Staff Response:** The City's Use Classification Chapter (SRC Chapter 400) establishes the framework for classifying land uses within the City. The proposed new development on the property includes construction of a community center and outdoor event area to support activities for an existing church, which is classified as a Religious Assembly.

The allowed uses within the PE are identified under SRC 542.005, Table 542-1.

**Religious Assembly, and uses accessory to it, are not permitted uses within the PE zone.**

City records indicate the subject property was originally developed with a religious - based elementary school, which is an allowed use in the PE zone. Additionally, a Conditional Use was granted for the subject property (CU99-1) allowing a temporary gravel parking lot for an existing private school for a period of one year. During the hearing, one witness appeared in opposition, contending that a church use that was also being conducted on the subject property at the time, cannot be considered an ancillary use of the elementary school.

The Hearings Officer found that the primary use of the subject property was the campus for a private school and the applicant's use of the subject property for church purposes constitutes an ancillary, subordinate, and secondary activity, conducted in furtherance of the primary activity.

An appeal of the Conditional Use approval was filed, with the appeal letter stating that granting the Conditional Use permit intensified a potentially illegal use that may adversely affect the surrounding neighborhood. The appeal letter also indicated that the



private church was not associated with the private school and compromised the primary land use on the subject property. A public hearing was held before the Salem Planning Commission on May 18, 1999. **The Planning Commission found that the use of the subject property for church activities is dependent upon the primary use of the property for school purposes. Thus, the Applicant's use for the property for church purposes is ancillary, subordinate and secondary to and dependent upon the principal use of the property as a school, and therefore, is not an illegal use under the applicable provisions of the SRC. The Planning Commission also found that if the permitted land use of the school ceases, the ancillary church use would no longer be permitted. The church must vacate the subject property since the property is zoned PE. A conditional use does not change the permitted use within the PE zone.**

The Planning Commission affirmed (Resolution PC99-5) the Hearings Officer decision of April 16, 1999 and granted Conditional Use Case No. 99-1 subject to SRC Chapters 130 and 160 and subject to nine conditions of approval (**Attachment 1**).

The applicant has confirmed that the existing elementary school relocated to their east campus the summer of 2009 and the school use of the subject property has ceased. Once the school ceases to operate, the church becomes nonconforming. By itself, the church is not a lawfully established nonconforming use; therefore, in accordance with CU99-1, the ancillary church must vacate the property.

For the existing church to remain on the subject property, the applicant would need to apply for a comprehensive plan map change / zone change for the subject property to a comprehensive plan and zoning designation which allow religious assembly uses. Staff would be supportive of a comprehensive plan and zone change from Community Service Education to Single Family Residential or Multi-Family Residential and from PE to RS, RM-I or RM-II. These zones allow a religious assembly use as a special use in the zone.

Pursuant to SRC 700.005(a), a special use is a use that, while allowed in certain zones and overlay zones, has the potential for creating impacts that merit special standards beyond those that would otherwise apply to uses generally in that zone or overlay zone.

Where designated as a special use, religious assembly shall comply with the additional standards set forth in SRC Chapter 700.005, and a project may only deviate from the special use standards in this chapter through conditional use approval as provided in SRC [Chapter 240](#), and not through an adjustment or variance.

### **Compliance Time Line**

Now that the requirements of Resolution PC99-5 and Conditional Use CU99-01 have been brought to the applicant's knowledge, it will be the applicant's responsibility to propose a time line to the City on how they plan to bring the subject property into conformance. The first step in the process would be to apply for a Comprehensive Plan Map Change / Zone Change. The City will not initiate a compliance case if the applicant is actively working with the City toward a resolution. The City understands that the applicant will need some time to formulate a plan of action and would like to hear back from the applicant within a period of one month (November 13, 2020) with their proposed time line.

### **Required Land Use Applications**

The land use applications checked in the table below have been preliminary identified as being

required for the proposed development based upon the information provided by the applicant at the time of the pre-application conference. Additional land use applications may be required depending on the specific proposal at the time of future development.

The application submittal packets, which include a summary of the review procedure, submittal requirements, and approval criteria, can be found on the Planning website at the following location:

<https://www.cityofsalem.net/Pages/land-use-applications.aspx>

The applicable land use application fees for these applications can be found at the following location:

<https://www.cityofsalem.net/CityDocuments/city-of-salem-fees.pdf>

Required Land Use Applications					
Zoning		Site Plan Review			
<input checked="" type="checkbox"/>	Conditional Use (SRC 240.005)	<input type="checkbox"/>	Class 1 Site Plan Review (SRC 220.005)		
<input checked="" type="checkbox"/>	Comprehensive Plan Change (SRC 64.020)	<input type="checkbox"/>	Class 2 Site Plan Review (SRC 220.005)		
<input checked="" type="checkbox"/>	Zone Change (SRC 265.000)	<input checked="" type="checkbox"/>	Class 3 Site Plan Review (SRC 220.005)		
<input type="checkbox"/>	Temporary use Permit – Class 1 (SRC 701.010)	Design Review			
<input type="checkbox"/>	Temporary Use Permit – Class 2 (SRC 701.010)	<input type="checkbox"/>	Class 1 Design Review (SRC 225.005)		
<input type="checkbox"/>	Non-Conforming Use Extension, Alteration, Expansion, or Substitution (SRC 270.000)	<input type="checkbox"/>	Class 2 Design Review (SRC 225.005)		
<input type="checkbox"/>	Manufactured Dwelling Park Permit (SRC 235.010)	<input type="checkbox"/>	Class 3 Design Review (SRC 225.005)		
Land Divisions		Historic Design Review (SRC 230.020)			
<input checked="" type="checkbox"/>	Property Line Adjustment (SRC 205.055)	<input type="checkbox"/>	Major Commercial	<input type="checkbox"/>	Minor Commercial
<input type="checkbox"/>	Property Boundary Verification (SRC 205.065)	<input type="checkbox"/>	Major Public	<input type="checkbox"/>	Minor Public
<input type="checkbox"/>	Replat (SRC 205.025)	<input type="checkbox"/>	Major Residential	<input type="checkbox"/>	Minor Residential
<input type="checkbox"/>	Partition (SRC 205.005)	Wireless Communication Facilities			
<input type="checkbox"/>	Subdivision (SRC 205.010)	<input type="checkbox"/>	Class 1 Permit (SRC 703.020)		
<input type="checkbox"/>	Phased Subdivision (SRC 205.015)	<input type="checkbox"/>	Class 2 Permit (SRC 703.020)		
<input type="checkbox"/>	Planned Unit Development Tentative Plan (SRC 210.025)	<input type="checkbox"/>	Class 3 Permit (SRC 703.020)		
<input type="checkbox"/>	Manufactured Dwelling Park Subdivision (SRC 205.020)	<input type="checkbox"/>	Temporary (SRC 703.100)		
Relief		<input type="checkbox"/>	Adjustment (SRC 703.090)		
<input type="checkbox"/>	Adjustment – Class 1 (SRC 250.005) <i>(Applicable when a proposed deviation from standards is within 20 percent of the standard)</i>	Other			

<input type="checkbox"/>	Adjustment – Class 2 (SRC 250.005) <i>(Applicable when a proposed deviation from standards exceeds 20 percent of the standard)</i>	<input type="checkbox"/>	Annexation – Voter Approval (SRC 260.035)
<input type="checkbox"/>	Variance (SRC 245.005)	<input type="checkbox"/>	Annexation – Voter Exempt (SRC 260.035)
<b>Natural Resources</b>		<input type="checkbox"/>	Sign Adjustment (SRC 900.035)
<input type="checkbox"/>	Tree Conservation Plan (SRC 808.035)	<input type="checkbox"/>	Sign Conditional Use (SRC 900.045)
<input type="checkbox"/>	Tree Conservation Plan Adjustment (SRC 808.040)	<input type="checkbox"/>	Sign Variance (SRC 900.040)
<input type="checkbox"/>	Tree Removal Permit (SRC 808.030)	<input type="checkbox"/>	SWMU Zone Development Phasing Plan (SRC 531.015)
<input type="checkbox"/>	Tree Variance (SRC 808.045)	<input type="checkbox"/>	Urban Growth Preliminary Declaration <i>(With Subdivision only)</i> (SRC 200.020)
<input type="checkbox"/>	Willamette Greenway Permit – Class 1 (SRC 600.015)	<input type="checkbox"/>	
<input type="checkbox"/>	Willamette Greenway Permit – Class 2 (SRC 600.015)	<input checked="" type="checkbox"/>	<u>Class 2 Driveway Approach Permit (SRC 804.025)</u>

#### Staff Comments

##### **Comprehensive Plan Map Change / Zone Change:**

A Comprehensive Plan Map Change / Zone Change application is required for the proposed development. A minor Comprehensive Plan Map amendment is an amendment to the [Salem Comprehensive Plan Map](#) that affects only a small number of properties or a closely circumscribed set of factual circumstances. Information about the comprehensive plan map change / zone change process and how to submit an application can be found [here](#).

##### **TPR (Transportation Planning Rule Analysis) is required for any Comprehensive Map Change**

The analysis determines whether the proposed zone change will have a “significant effect on the transportation system.” If it does impact the system, the analysis determines how those effects will be mitigated.

##### **Conditional Use:**

Religious assembly uses are classified as a special use in RS, RM-I or RM-II zones and are subject to the development standards of SRC Chapter 511 for an RS zone, Chapter 513 for a RM-1, Chapter 514 for a RM-II zone, and Chapter 700. If the proposed development does not meet all development standards of SRC 700.005, a conditional use permit application will be required.

The purpose of a Conditional Use is to allow uses that are similar to other uses permitted outright in a zone but because of the manner in which the use may be conducted, or the land and buildings developed for the use, review is required to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area. A conditional use permit is processed as a Type III procedure under SRC Chapter 300 and requires a public hearing before the Salem Hearings Officer. Information about the conditional use process and how to submit an application can be found [here](#).

### **Class 3 Site Plan Review:**

A Class 3 Site Plan Review is for development applications that require discretionary decisions and provide an opportunity for public comment and appeal under state law. Information about the site plan review process can be found [here](#).

### **Property Line Adjustment:**

The subject property consists of two contiguous tax lots. It appears that a portion of the existing church building was developed over an existing property line. No legal descriptions were provided for review, however, if the properties are determined to be legal, Staff recommendation is to apply for a property line adjustment to consolidate the subject property into one lot.

## **Consolidated Land Use Application Procedures**

When multiple land use applications are required or proposed for a development, the City's land use procedures ordinance (SRC Chapter 300) provides alternative methods for how such applications may be processed. The applications may be processed individually in sequence, concurrently, or consolidated into a single application. Where multiple applications proposed to be consolidated include an application subject to review by the Historic Landmarks Commission, the application subject to Historic Landmarks Commission review shall be processed individually in sequence or concurrently.

Multiple land use applications consolidated into a single application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type and the highest Review Authority required for any of the land use applications proposed to be consolidated.

Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and Review Authority and processed simultaneously.

## **Zoning**

The zoning of the subject property has been identified in the table below. For specific requirements of the applicable zone(s), click on the zone(s) in the table.

Base Zones			
<input type="checkbox"/>	<a href="#">EFU – Exclusive Farm Use (SRC 500.000)</a>	<input type="checkbox"/>	<a href="#">MU-I – Mixed Use I (SRC 533.000)</a>
<input type="checkbox"/>	<a href="#">RA – Residential Agriculture (SRC 510.000)</a>	<input type="checkbox"/>	<a href="#">MU-II – Mixed Use II (SRC 534.000)</a>
<input type="checkbox"/>	<a href="#">RS – Single Family Residential (SRC 511.000)</a>	<input type="checkbox"/>	<a href="#">EMSU – Edgewater/Second Street Mixed-Use Corridor (SRC 535.000)</a>
<input type="checkbox"/>	<a href="#">RD – Duplex Residential (SRC 512.000)</a>	<input type="checkbox"/>	<a href="#">PA – Public Amusement (SRC 540.000)</a>
<input type="checkbox"/>	<a href="#">RM-1 – Multiple Family Residential (SRC 513.000)</a>	<input type="checkbox"/>	<a href="#">PC – Public/Private Cemetery (SRC 541.000)</a>
<input type="checkbox"/>	<a href="#">RM-2 – Multiple Family Residential (SRC 514.000)</a>	<input checked="" type="checkbox"/>	<a href="#">PE – Public/Private Education (SRC 542.000)</a>
<input type="checkbox"/>	<a href="#">RH – Multiple Family High-Rise Residential (SRC 515.000)</a>	<input type="checkbox"/>	<a href="#">PH – Public/Private Health Services (SRC 543.000)</a>
<input type="checkbox"/>	<a href="#">CN – Neighborhood Commercial (SRC 520.000)</a>	<input type="checkbox"/>	<a href="#">PS – Public Service (SRC 544.000)</a>

<input type="checkbox"/>	CO – Commercial Office (SRC 521.000)	<input type="checkbox"/>	PM – Capitol Mall (SRC 545.000)
<input type="checkbox"/>	CR – Rental Commercial (SRC 522.000)	<input type="checkbox"/>	EC – Employment Center (SRC 550.000)
<input type="checkbox"/>	CG – General Commercial (SRC 523.000)	<input type="checkbox"/>	IC – Industrial Commercial (SRC 551.000)
<input type="checkbox"/>	CB – Central Business District (SRC 524.000)	<input type="checkbox"/>	IBC – Industrial Business Campus (SRC 552.000)
<input type="checkbox"/>	WSCB – West Salem Central Business District (SRC 525.000)	<input type="checkbox"/>	IP – Industrial Park (SRC 553.000)
<input type="checkbox"/>	FMU – Fairview Mixed-Use (SRC 530.000)	<input type="checkbox"/>	IG – General Industrial (SRC 554.000)
<input type="checkbox"/>	SWMU – South Waterfront Mixed-Use (SRC 531.000)	<input type="checkbox"/>	II – Intensive Industrial (SRC 555.000)
<input type="checkbox"/>	NCMU – Neighborhood Center Mixed-Use (SRC 532.000)	<input type="checkbox"/>	SCI – Second Street Craft Industrial Corridor (SRC 556.000)
<b>Overlay Zones</b>			
<input type="checkbox"/>	Willamette Greenway (SRC 600.000)	<input type="checkbox"/>	Mixed-Use (SRC 619.000)
<input type="checkbox"/>	Floodplain (SRC 601.000)	<input type="checkbox"/>	Salem Hospital (SRC 620.000)
<input type="checkbox"/>	Airport (SRC 602.000)	<input type="checkbox"/>	Superior-Rural (SRC 621.000)
<input type="checkbox"/>	Portland Fairgrounds Road (SRC 603.000)	<input type="checkbox"/>	Oxford-West Nob Hill (SRC 622.000)
<input type="checkbox"/>	Pine Street Mixed-Use (SRC 604.000)	<input type="checkbox"/>	Oxford-Hoyt (SRC 623.000)
<input type="checkbox"/>	Northgate Mixed-Use (SRC 605.000)	<input type="checkbox"/>	Hoyt-McGilchrist (SRC 624.000)
<input type="checkbox"/>	Wallace Road Corridor (SRC 606.000)	<input type="checkbox"/>	Saginaw Street (SRC 625.000)
<input type="checkbox"/>	West Salem General Industrial (SRC 608.000)	<input type="checkbox"/>	Commercial High-Density Residential (SRC 626.000)
<input type="checkbox"/>	Patterson Street Corridor (SRC 609.000)	<input type="checkbox"/>	22 <sup>nd</sup> and Electric (SRC 627.000)
<input type="checkbox"/>	Walker School Residential Area (SRC 612.000)	<input type="checkbox"/>	State Street (SRC 628.000)
<input type="checkbox"/>	Broadway-High Street Retail (SRC 613.000)	<input type="checkbox"/>	McNary Field (SRC 629.000)
<input type="checkbox"/>	Broadway-High Street Housing (SRC 614.000)	<input type="checkbox"/>	South Gateway (SRC 630.000)
<input type="checkbox"/>	Broadway-High Street Transition (SRC 615.000)	<input type="checkbox"/>	Compact Development (SRC 631.000)
<input type="checkbox"/>	Riverfront High Density Residential (SRC 616.000)	<input type="checkbox"/>	General Retail/Office (SRC 632.000)
<input type="checkbox"/>	Riverfront (SRC 617.000)	<input type="checkbox"/>	Front Street (SRC 633.000)
<input type="checkbox"/>	Chemawa-I-5 Northeast Quadrant Gateway (SRC 618.000)		
<b>Staff Comments</b>			
<b>Review the developments standards for potential zones: RS, RM-I and RM-II.</b>			

### **Zoning of Surrounding Properties**

North: RS (Single Family Residential)  
South: Across College Drive NW Right-of-Way: RM-II (Multiple Family Residential 2)  
East: Across College Drive NW Right-of-Way: RS (Single Family Residential)  
West: RS (Single Family Residential); Polk County – Exclusive Farm Use Zone

### **Development Standards**

The proposed development will be primarily subject to the provisions of the chapters identified in the table below. For specific requirements, click on chapters in the table.

Development Standards			
<input checked="" type="checkbox"/>	General Development Standards (SRC 800.000)	<input checked="" type="checkbox"/>	Landscaping and Screening (SRC 807.000)
<input checked="" type="checkbox"/>	Public Improvements (SRC 802.000)	<input checked="" type="checkbox"/>	Preservation of Trees and Vegetation (SRC 808.000)
<input checked="" type="checkbox"/>	Streets and Right-Of-Way Improvements (SRC 803.000)	<input type="checkbox"/>	Wetlands (SRC 809.000)
<input checked="" type="checkbox"/>	Driveway Approaches (SRC 804.000)	<input checked="" type="checkbox"/>	Landslide Hazards (SRC 810.000)
<input checked="" type="checkbox"/>	Vision Clearance (SRC 805.000)	<input type="checkbox"/>	Sign Code (SRC 900.000)
<input checked="" type="checkbox"/>	Off-Street Parking, Loading and Driveways (SRC 806.000)	<input checked="" type="checkbox"/>	Multi-Family Code (SRC 702.000)
Staff Comments			

### **Natural Resources**

**Trees:** The City's tree preservation ordinance (SRC Chapter 808) protects Heritage Trees, Significant Trees (*including Oregon White Oaks with diameter-at-breast-height of 24 inches or greater*), trees and native vegetation in riparian corridors, and trees on lots and parcels greater than 20,000 square feet. The tree preservation ordinance defines "tree" as, "any living woody plant that grows to 15 feet or more in height, typically with one main stem called a trunk, which is 10 inches or more dbh, and possesses an upright arrangement of branches and leaves."

Because the proposed development does not involve a partition or subdivision creating lots for the purpose of developing Single Family or Two Family uses, a Tree Conservation Plan is not required in conjunction with the proposed development.

Please note, however, that prior to site plan review or building permit approval, trees shall not be removed from a lot or parcel that is 20,000 square feet or greater, or on contiguous lots or parcels under the same ownership that total 20,000 square feet or greater, unless the removal is undertaken pursuant to: Tree and Vegetation Removal Permit; Tree Conservation Plan; Tree Variance; or an approved commercial timber harvest. Trees may be removed from a site as long as the removal does not result in:

- Removal of heritage trees, significant trees, and trees in riparian corridors.
- Removal of trees from within the right-of-way of public streets is subject to the requirements and separate approval process of SRC Chapter 86.

### **Neighborhood Association Contact**

When a land use application requires neighborhood association contact, the applicant must contact the City-recognized neighborhood association(s) whose boundaries include, and are adjacent to, the subject property via e-mail or letter.

The e-mail or letter must be sent to **both** the Neighborhood Association Chair(s) and Land Use Chair(s) of the applicable neighborhood association and contain the following information:

- 1) The name, telephone number, and e-mail address of the applicant;
- 2) The address of the subject property;

- 3) A summary of the proposal;
- 4) A conceptual site plan, if applicable, that includes the proposed development; and
- 5) The date on which the e-mail or letter is being sent.

**Note:** Land use applications requiring neighborhood association contact will not be accepted unless they are accompanied by a copy of the e-mail or letter that was sent to the neighborhood association and a list of the e-mail or postal addresses to which the e-mail or letter was sent.

### **Open House**

When a land use application requires an open house, the applicant must arrange and attend one open house to share the development proposal with the neighborhood and surrounding property owners and residents prior to application submittal.

The open house must be within the boundaries of the City-recognized neighborhood association in which the subject property is located or within two miles of the subject property. The applicant must provide written notice of the open house to the applicable neighborhood association(s) and the Planning Administrator and must post notice of the open house on the subject property.

**Note: Applicants can choose to present their proposals at a neighborhood association meeting in-lieu of arranging and attending an open house.**

### **Neighborhood Association Information**

For your convenience, neighborhood association(s) contact information is included below. Please note that the identified neighborhood association chair(s), and their corresponding contact information, is current as of the date of the pre-application conference, but this information is subject to change if the chair(s) or their contact information has changes subsequent to the date of the pre-application conference.

Up-to-date contact information for neighborhood representatives may also be obtained by contacting the City's Neighborhood Enhancement Division at 503-588-6207 or by visiting the City's website at the following location: <https://www.cityofsalem.net/my-neighborhood>

Applicable Neighborhood Association(s):	Meeting Date, Time, & Location	Neighborhood Association Chair(s)
West Salem Neighborhood Association	Meetings are held the 3rd Monday, 7 p.m. at Roth's IGA, 1130 Wallace RD NW, Salem OR 97304.	Kevin Chambers, Chair <a href="mailto:chambers.kevin@outlook.com">chambers.kevin@outlook.com</a>
		Steve Anderson, Land Use Chair <a href="mailto:andersonriskanalysis@comcast.net">andersonriskanalysis@comcast.net</a>
		Website: <a href="https://www.cityofsalem.net/Pages/west-salem-neighborhood-association.aspx">https://www.cityofsalem.net/Pages/west-salem-neighborhood-association.aspx</a>

### **Salem Revised Code Available On-Line**

For specific reference to the requirements of the Salem Revised Code (SRC) discussed in this report, the code can be accessed on-line through the City's website at:  
<http://www.cityofsalem.net/Pages/salem-revised-code.aspx>



## RESOLUTION NO.: PC 99-5

WHEREAS, an appeal on Conditional Use Case No. 99-1  
located at 255 College Drive NW  
was filed by Craig Urbani  
with the Planning Commission of the City of Salem, and

WHEREAS, after due notice, a public hearing on the proposed changes was held before the Planning Commission on May 18, 1999, at which time witnesses were heard and evidence received; and

WHEREAS, the Planning Commission having carefully considered the entire record of this proceeding including the testimony presented at the hearing and the staff report dated May 18, 1999 after due deliberation and being fully advised; NOW THEREFORE

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

### Section 1. FINDINGS:

The Planning Commission hereby adopts the attached as its findings of fact dated May 26, 1999:

### Section 2. ORDER:

Based upon the attached findings and conclusions, it is hereby ordered that the Planning Commission affirm the Hearings Officer decision of April 16, 1999 and GRANT Conditional Use Case No. 99-1 subject to SRC Chapters 130 and 160 and meeting the following conditions:

1. The temporary gravel parking lot permit is limited to a maximum of 72 unpaved parking spaces as shown on the applicants site plan for the existing private school/church facility and is limited to one year. The temporary permit may be renewed annually a total of no more than four additional years. The applicants shall submit a request in writing to renew the permit on an annual basis, otherwise, the parking lot is required to be completely improved to code standards.  
  
To renew a temporary permit annually, the applicants shall submit written findings that the facts upon which the approval was originally based have not changed to an extent sufficient to warrant an entirely new adjustment application. If the Planning Administrator finds a substantial change in the circumstances upon which approval was originally granted, a new Conditional Use application can be required for the renewal or the parking lot can be required to be completely improved.
2. The temporary gravel parking area is required to be improved with a minimum of four inches of base rock covered by a minimum of two inches of three-quarter inch or smaller crushed rock as a leveling course, except that, gravel parking and loading areas used exclusively by passenger cars need only be improved with a minimum of three inches of base rock.
3. Wheel barriers shall be installed to designate each parking space. The parking spaces adjacent to the buildings on the site shall be separated a minimum of 5-feet from the exterior walls. Wheel barriers shall be placed so that parked vehicles do not overhang the 5-foot separation or the public right-of-way.
4. Parking lot signing shall be provided in accordance with SRC Chapter 62 to indicate direction.
5. The temporary gravel parking area is limited in area to 15,000 square feet.
6. The temporary gravel parking area shall be screened from all adjacent residential uses by a sight-obscuring fence.

7. A landscaped area at least 10-feet in depth planted with a minimum of one plant unit per twenty (20) square feet of yard area (refer to Table 132-3), shall be located along the perimeter of the graveled parking area and College Drive NW. If the planting is sight-obscuring, it may count toward meeting the sight-obscuring screening requirement adjacent to residential uses.
8. Prohibit parking in the grassed play area; remove existing gravel and reseed the grassed area.
9. Require more extensive planting than required by the code all along the street right-of-way.

ADOPTED by the Planning Commission this 1<sup>st</sup> day of June, 1999.

A handwritten signature in black ink, appearing to be "Samuel", written over a horizontal line.

President, Planning Commission

A copy of the findings and conclusions for this decision may be obtained by calling the Salem Planning Division at (503)588-6173, or writing to the following address: Salem Planning Division; Room 305, Civic Center; 555 Liberty Street SE; Salem, Oregon 97301.

## **CONDITIONAL USE CASE NO. 99-1**

### **SALEM PLANNING COMMISSION**

#### **FACTS AND FINDINGS**

1. The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Community Services." The subject property is zoned PE (Public and Private Educational Services).
2. The PE zone permits private and public educational uses: Educational Services (Standard Industrial Classification (SIC) #82). Religious organizations (SIC #86) are not permitted, special, or conditional uses in the PE zone. If deemed an ancillary use, it is permitted if the church comprises a minor function relative to the furtherance of the private, religious-based school.
3. The appeal letter states that the granting of the Conditional Use permits the "intensification of a potentially illegal use that may adversely affect the surrounding neighborhood." The appeal letter indicates that the private church is not associated with the private school and comprises the major land use on the subject property.

The Hearings Officer reviewed and included the appellant's and the applicant's additional comments within the decision. He evaluated the appropriateness of Mr. Urbani's seven suggested conditions. Based upon the evidence provided, the Hearings Officer found that the primary use of the subject property is the campus for a private school.

The Appellant has asserted that the use of the subject property by the Applicant for church purposes is a potentially illegal use. The Applicant's representative responded that its use of the property for church purposes is an ancillary and subordinate activity, conducted in furtherance of the primary activity (elementary school), and is secondary to and dependent upon the primary use.

SRC 113.090 (b) Provides that:

"Ancillary or subordinate activities, conducted in furtherance of the primary activity, shall not be considered in determining the SIC classification for purposes of this zoning code, even though such secondary and dependent activities may be separately classifiable were they not secondary to and dependent on the principal use."

The Applicant owns the subject property and leases it back to Salem Academy, which conducts a religious-based elementary school on the property. The Applicant's representative testified that Salem Academy uses the entire property for the conduct of its school, on a Monday-through-Friday basis with occasional use at other times. The Applicant's representative further testified that the Applicant uses approximately 17% of the square footage within the buildings on the property for the conduct of its church activities; and that such use consumes only about 2.4% of the total time each week. No evidence was offered to contradict these estimates regarding the usage of the subject property. The primary use of the property is for Salem Academy's private, religious-based school. The Applicant's use of a small portion of the property for church activities a few hours each week constitute an "ancillary or subordinate activity", which is "secondary to" the primary school use of the property.

The Appellant asserted that the Applicant's church activities are not 'conducted in furtherance of the primary activity' because Applicant and Salem Academy are separate legal entities, and the only legal relationship between them is as lessor and lessee. Applicant responded that there are

close ties of religion and philosophy that bind it to Salem Academy, that many of the students and faculty of the school are members of the church, and that the two organizations cooperate in carrying out joint or coordinated programs in furtherance of their respective missions. Applicant further stated that the ability of the Applicant to make ancillary use of the property for church purposes when it is not being used by the school enables the Applicant to make the property available to the Salem Academy at a rental rate of approximately \$.15 per square foot, which rate the Applicant testified is far below market rates; and Applicant argued that in that sense, the conduct of the ancillary activity is in furtherance of the primary purpose by making it economically feasible for the school to occupy and use the property.

The Applicant further testified that there is no precedent in Salem for making a legal relationship between the primary and ancillary users of property a requisite for a finding that a use is 'ancillary and subordinate' under SRC 113.090 (b). The Applicant's representative said that in a number of other cases throughout the community, churches have been permitted to conduct church services in public school buildings on properties zoned PE, despite the fact that there has been nothing more than a landlord-tenant relationship between the school district and the church.

Based upon the foregoing, we find that the Applicant's use of the subject property for church purposes, in the manner and to the extent described in the Applicant's testimony, constitutes an ancillary, subordinate and secondary activity, conducted in furtherance of the primary activity.

A similar question is whether the church activity is dependent upon the primary use of the property as an elementary school. This issue was not addressed by the Appellant. The Applicant's representative reviewed the history of the relationship of the Applicant to the subject property, stating that the Applicant acquired the property several years ago because Salem Academy needed to reduce its debt load while continuing to operate its school on the property, and that a purchase and lease-back by the Applicant made it possible for Salem Academy to realize its goals while at the same time providing space for the Applicant to conduct its church activities as an ancillary, subordinate and secondary use of the property. The Applicant's representative indicated that the purchase-lease-back relationship between Salem Academy and the Applicant makes it possible for the Applicant to use a portion of the subject property at a cost it can afford. The compatible schedules of the school and the church facilitate the existing dual use of the facilities, making each dependent upon the other. Thus, the church activity is dependent upon the primary use of the property as an elementary school. This symbiotic relationship is not unique to this property. In several other cases throughout the community, public and private schools make space available in their facilities for use by churches, on a lease basis at nominal rents. In each case the church is dependent upon the primary school use of the property, due to the compatible schedules of the two activities and the low rents that characterize these relationships. The economics of these situations work to allow two compatible organizations to make a shared use of a single facility that neither could afford by itself.

Accordingly, we find that the use of a portion of the subject property for church activities is dependent upon the primary use of the property for school purposes. Thus the Applicant's use of the property for church purposes is ancillary, subordinate and secondary to and dependent upon the principal use of the property as a school, and therefore, Applicant's use is not illegal under the applicable provisions of the Salem Revised Code.

If the permitted land use of the school ceases, the ancillary church use would no longer be permitted. The church must vacate the subject property since the property is zoned PE. A Conditional Use does not change the permitted uses within the PE zone.

As stated in SRC Chapter 117.010 approval of a conditional use is not a variance, waiver, or relaxation of any of the provisions of this code and is limited to one year. Conditional Use approval may permit gravel parking area. Certain development standards could be imposed as

part of the Conditional Use approval such as renewing annually. Otherwise, the parking lot is required to be completely improved to code standards.

4. The appeal letter also states that additional parking is not established pursuant to the Special Use Standards in SRC 119, Table 119-1.

The church is not a Special Use in the PE zone and therefore, is not subject to the development standards contained in SRC 119.500 and Table 119-1. In order to comply with SRC 119, a Comprehensive Plan/Zone Change to RA (Residential Agricultural); RS (Residential Single Family) or RM-1 (Residential Multi-Family) would be needed to facilitate a religious organization (SIC # 866) as a Special Use.

Once the developer submits plans for improvement of the parking lot pursuant to the time limit granted by the Conditional Use, or converts the subject property to an alternative use, all code requirements for parking, landscaping and setbacks must be met. Compliance with the use for which a parking lot serves is required by SRC 133.050 (b).

5. The appeal letter states that the Hearings Officer erred because there is: "no secondary school operating at the site" and that the: "church services to be those of the school students, conducted during regular school hours." The appeal letter states that: "The school at the site has been long established. As previously noted, the site originally included both a high school and an elementary school. Now the site contains only the elementary school. The high school use has moved to another site."

The appellant has provided information that the elementary school is still operating. The appellant has not presented evidence that the elementary school has ceased operating.

Once a public or private school ceases to operate on the subject property, the church use becomes nonconforming and must cease. By itself, the ancillary church and gravel parking lot are not lawfully established nonconforming uses (SRC Chapter 112). The granting of the Conditional Use does not confer lawfully nonconforming use status on the church or the gravel parking lot.

6. The appellant indicates the staff, the Hearings Officer and the applicants have ignored the: "seven suggested conditions" to the Hearings Officer and indicates that adverse impacts are not addressed by the Hearings Officer's decision. The appeal letter is requesting eight additional conditions, summarized as follows:

- a. Prohibit parking in the grassed play area, require removal of the existing gravel and reseed the grassed area.

The appellant submitted a map showing a grassed play area in a separate area as requested by the applicants for a Conditional Use to permit a gravel parking area. Parking in this area is an enforcement issue and is not permitted by code. The Applicant has acknowledged this fact, and agreed not to permit parking on this area in the future, and to remove the gravel and reseed the play area. The imposition of this additional condition is necessary to adapt the proposed gravel parking lot to its neighborhood, in that it will insure that parking will be concentrated on the proposed gravel lot rather than being allowed to overflow onto the play area. Therefore, parking should be prohibited on the grassed play area north of the proposed parking lot, and the Applicant should be required to remove the gravel from and reseed this area.

- b. Submit a report for a landscape professional evaluating the effect of the dirt around the significant trees. The professional should have no relation to the church and be evaluated by staff.

The Parks Division will review landscaping and irrigation plans pursuant to SRC Chapter 132. The appellant is asking that the Commission require evaluation of moved dirt and that the professional be designated by the Commission as having no relationship to the church. Code does not permit relationship to a church to be considered. The Parks Division will require that landscaping and irrigation plans for the proposed parking lot be submitted by a licensed landscape architect or design professional. The Applicant's representative testified that the trees referred to by Appellant are on another part of Applicant's property, approximately 50 feet away from the site of the proposed parking lot. No evidence was presented to show that the placement of the dirt mentioned by Appellant around these trees will have any impact on the proposed parking lot, or that it would be necessary to impose this condition in order to insure compliance with an approval criterion or to adapt the proposed lot to its location or neighborhood, and the Commission declines to impose this condition.

- c. A civil engineer should develop a drainage plan for the entire area not just the parking lot and submit for review and approval to the City.

The Public Works Department will perform a review of any required drainage and detention plans to their specifications. The appellant is requesting that complete drainage plans of the entire 12 acres be submitted. The Commission finds that the imposition of a condition requiring that the Applicant develop a drainage plan for the entire 12 acres, as opposed to a plan for the parking area, is not necessary to insure compliance with an approval criterion or to adapt the parking lot to its location or neighborhood, and therefore it is inappropriate to impose such a condition.

- d. Require a hedge or planting not a wall or fence to screen the parking lot from College Drive.

To implement the rights granted by the Conditional Use, the development of the gravel parking lot is subject to SRC Chapter 130.500 that states:

"Except on driveways within a yard adjacent to a street, all areas in residential districts that are used for parking, loading, or storage of motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other similar vehicles shall be screened from all public areas, public right-of-ways and property that is used for residential purposes by a six-foot sight-obscuring fence, wall, or hedge. (Ord No. 31-96)."

Conditions may be imposed that are 'necessary to adapt the conditional use to its location or neighborhood'. SRC 117.010 Condition No. 6 of the Hearings Officer's decision requires that the lot be screened from adjacent residential uses by a sight obscuring fence, wall or hedge. The Commission may specify a hedge instead of a fence or wall. All sight-obscuring screening is required to be set back a minimum of 10 feet from the property/right-of-way line (SRC 131.100) and opacity is regulated by SRC 131.130. The Applicant has agreed to the imposition of a condition that the screening be by means of a hedge or plantings, and the Commission finds that such screening is necessary to adapt the parking lot to its location or neighborhood.

- e. Require more extensive planting than required by code along the right-of-way.

Condition 7 of the Hearings Officer's decision requires: "A landscaped area at least 10-feet in depth planted with a minimum of one plant unit per twenty (20) square feet of yard area (refer to Table 132-3), shall be located along the perimeter of the graveled parking area and College Drive NW. If the planting is sight-obscuring, it may count toward meeting the sight-obscuring screening requirement adjacent to residential uses."

If the applicants are required to install a sight-of-obscuring hedge instead of being given the option

of a sight obscuring fence or wall, the required screening along the perimeter of the graveled parking and College Drive would meet this condition. Plant Unit Definition is listed in SRC Table 132-3.

The Applicant has agreed to the imposition of an additional condition requiring that the street right of way lying between the landscaped strip adjacent to the new parking lot and the west edge of the paved street be landscaped. The Commission finds that the imposition of this condition will help adapt the parking lot to its location, and therefore imposes this additional condition.

- f. Determine the number of existing parking spaces and limit to a total of 75 paved and unpaved parking spaces.

A parking schematic for the gravel parking lot must be submitted to the City's Building and Safety Division. The appellant is requesting that all parking on the subject property be taken into consideration and limited. The Applicant has argued that the criteria for this conditional use do not include a showing of need for additional parking and that the Applicant is merely seeking permission to surface with gravel a parking lot that it could develop on a simple building permit if it could afford to pave the lot at this time. The Appellant has presented no testimony or other evidence to the effect that the proposed lot would be too large to fit the proposed location or neighborhood, or that limiting the total parking on the entire site as requested is necessary to adapt the proposed conditional use to its location or neighborhood. The Applicant has stated that approval of the proposed gravel lot will allow the school and church to minimize on-street parking, and will allow them to eliminate parking on the semi-circular driveway on the south end of the property, so the school can use that driveway for the loading and unloading of school buses. The Commission finds no basis in the conditional use criteria for imposing the requested condition, and declines to do so.

- g. Limit the seating capacity of the church to 375 seats.

The Appellant has expressed concerns that Applicant's church activities may grow to the point that they overwhelm the neighborhood, causing traffic and other problems. Applicant has stated that it seeks approval for the gravel lot as much to accommodate the school as the church, and that it has no plans to expand the seating capacity of the building used for the conduct of church services. The Applicant argues that there is no basis in the city code for limiting the seating capacity of a building in connection with the approval of a conditional use application for a graveled parking lot. The Commission finds that limiting the seating capacity of the building in question would not be necessary or effective to insure compliance with an approval criterion to adapt the proposed lot to its neighborhood or location, and that there is accordingly no basis upon which it can impose such a condition, and it declines to do so.

- h. The applicant should be prohibited from using SRC 133.130 (c) to increase the number of seats allowed in the largest area if a total of 75 or more spaces are allowed by approval of this conditional use.

SRC 133.130 (c) permits the City to authorize the joint use of parking areas by the following uses or activities in every district under the following conditions ("daytime" and "nighttime" uses are classified in SRC 133.140). Up to 100 percent of the parking spaces required by code for a church or for an auditorium incidental to a public or private school may be satisfied by the off-street parking spaces provided by daytime uses. The applicants may choose to execute a properly drawn legal instrument for joint use of off-street parking facilities pursuant to SRC 133.130 (f).

The Applicant has not applied for permission to increase the number of seats allowed in the facilities on its property. It would be premature for the city to rule on such an application in advance of receiving the same. In addition, no evidence has been presented showing that the



imposition of this condition is necessary to insure compliance with an approval criterion, or necessary to adapt the proposed lot to its location or neighborhood. The Commission declines to impose this condition.

TO:  SALEM PLANNING COMMISSION  
FROM: VICKIE HARDIN WOODS  
URBAN PLANNING ADMINISTRATOR

SUBJECT: APPEAL OF THE MARCH 10, 1999 HEARINGS OFFICER DECISION FOR CONDITIONAL  
USE CASE NO. 99-1; 255 COLLEGE DRIVE NW

### ISSUE

Appeal of the March 31, 1999, Hearings Officer decision granting Conditional Use Case No. 99-1 to allow an unpaved parking lot within 500 feet of an "R" district (SRC Chapter 133.200(b)) in a PE (Public and Private Educational Services) zone subject to seven conditions (Attachment A).

### BACKGROUND

At the March 10, 1999, public hearing, the Hearings Office continued the written record until March 24, 1999, to permit Craig Urbani and the applicants time to submit additional materials. Once received, the Hearings Officer reviewed the materials and entered them into the written record. The decision was issued on March 31, 1999 (Attachment A). The minutes of the public hearing are attached (Attachment B).

On April 16, 1999, Mr. Urbani filed an appeal of the Hearings Officer's decision (Attachment C).

### FACTS AND FINDINGS

1. The Salem Area Comprehensive Plan (SACP) map designates the subject property as "Community Services." The subject property is zoned PE (Public and Private Educational Services).
2. The PE zone permits private and public educational uses: Educational Services (Standard Industrial Classification (SIC) #82). Religious organizations (SIC #86) are not permitted, special, or conditional uses in the PE zone. If deemed an ancillary use, it is permitted if the church comprises a minor function relative to the furtherance of the private, religious-based school.
3. The appeal letter states that the granting of the Conditional Use permits the "intensification of a potentially illegal use that may adversely affect the surrounding neighborhood." The appeal letter indicates that the private church is not associated with the private school and comprises the major land use on the subject property.

The Hearings Officer reviewed and included the appellant's and the applicant's additional comments within the decision. He evaluated the appropriateness of Mr. Urbani's seven suggested conditions. Based upon the evidence provided, the Hearings Officer found that the primary use of the subject property is the campus for a private school.

If the permitted land use of the school ceases, the ancillary church use would no longer be permitted. The church must vacate the subject property since the property is zoned PE. A Conditional Use does not change the permitted uses within the PE zone.

No evidence was presented that permitted the Hearings Officer to conclude that the church and, therefore, the gravel parking lot request, does not meet the definition of ancillary use in SRC 113.090 (b). Ancillary or subordinate activities are conducted in furtherance of the primary activity. Ancillary uses are not considered in determining the Standard Industrial Classification (SIC) manual for purposes of the zoning code. Secondary and dependent activities may be separately classifiable under the SIC manual were they not secondary to and dependent upon the principal use.

As stated in SRC Chapter 117.010 approval of a conditional use is not a variance, waiver, or relaxation of any of the provisions of this code and is limited to one year. Conditional Use approval may permit gravel parking area. Certain development standards could be imposed as part of the Conditional Use approval such as renewing annually. Otherwise, the parking lot is required to be completely improved to code standards.

4. The appeal letter also states that additional parking is not established pursuant to the Special Use Standards in SRC 119, Table 119-1.

The church is not a Special Use in the PE zone and therefore, is not subject to the development standards contained in SRC 119.500 and Table 119-1. In order to comply with SRC 119, a Comprehensive Plan/Zone Change to RA (Residential Agricultural); RS (Residential Single Family) or RM-1 (Residential Multi-Family) would be needed to facilitate a religious organization (SIC # 866) as a Special Use.

Once the developer submits plans for improvement of the parking lot pursuant to the time limit granted by the Conditional Use, or converts the subject property to an alternative use, all code requirements for parking, landscaping and setbacks must be met. Compliance with the use for which a parking lot serves is required by SRC 133.050 (b).

If the Commission requires that the temporary gravel parking lot be subject to SRC Chapter 119, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

5. The appeal letter states that the Hearings Officer erred because there is: "no secondary school operating at the site" and that the: "church services to be those of the school students, conducted during regular school hours." The appeal letter states that: "The school at the site has been long established. As previously noted, the site originally included both a high school and an elementary school. Now the site contains only the elementary school. The high school use has moved to another site."

The appellant has provided information that the elementary school is still operating. The appellant has not presented evidence that the elementary school has ceased operating.

Once a public or private school ceases to operate on the subject property, the church use becomes nonconforming and must cease. By itself, the ancillary church and gravel parking lot are not lawfully established nonconforming uses (SRC Chapter 112). The granting of the Conditional Use does not confer lawfully nonconforming use status on the church or the gravel parking lot.

6. The appellant indicates the staff, the Hearings Officer and the applicants have ignored the: "seven suggested conditions" to the Hearings Officer and indicates that adverse impacts are not addressed by the Hearings Officer's decision. The appeal letter is requesting eight additional conditions, summarized as follows:

- a. Prohibit parking in the grassed play area, require removal of the existing gravel and reseed the grassed area.

The appellant submitted a map showing a grassed play area in a separate area as requested by the applicants for a Conditional Use to permit a gravel parking area. Parking in this area is an enforcement issue and is not permitted by code. If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- b. Submit a report for a landscape professional evaluating the effect of the dirt around the significant trees. The professional should have no relation to the church and be evaluated by staff.

The Parks Division will review landscaping and irrigation plans pursuant to SRC Chapter 132. The appellant is asking that the Commission require evaluation of moved dirt and that the professional be designated by the Commission as having no relationship to the church. Code does not permit relationship to a church to be considered. The Parks Division will require that landscaping and irrigation plans be submitted by a licensed landscape architect or design professional.

- c. A civil engineer should develop a drainage plan for the entire area not just the parking lot and submit for review and approval to the City.

The Public Works Department will perform a review of any required drainage and detention plans to their specifications. The appellant is requesting that complete drainage plans of the entire 12 acres be submitted. If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- d. Require a hedge or planting not a wall or fence to screen the parking lot from College Drive.

To implement the rights granted by the Conditional Use, the development of the gravel parking lot is subject to SRC Chapter 130.500 that states:

"Except on driveways within a yard adjacent to a street, all areas in residential districts that are used for parking, loading, or storage of motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other similar vehicles shall be screened from all public areas, public right-of-ways and property that is used for residential purposes by a six-foot sight-obscuring fence, wall, or hedge. (Ord No. 31-96)."

The Commission may specify a hedge instead of a fence or wall. All sight-obscuring screening is required to be set back a minimum of 10 feet from the property/right-of-way line (SRC 131.100) and opacity is regulated by SRC 131.130. If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- e. Require more extensive planting than required by code along the right-of-way.

Condition 7 of the Hearings Officer's decision requires: "A landscaped area at least 10-feet in depth planted with a minimum of one plant unit per twenty (20) square feet of yard area (refer to Table 132-3), shall be located along the perimeter of the graveled parking area and College Drive NW. If the planting is sight-obscuring, it may count toward meeting the sight-obscuring screening requirement adjacent to residential uses."

If the applicants are required to install a sight-of-obscuring hedge instead of being given the option of a sight obscuring fence or wall, the required screening along the perimeter of the graveled parking and College Drive would meet this condition. Plant Unit Definition is listed in SRC Table 132-3. If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- f. Determine the number of existing parking spaces and limit to a total of 75 paved and unpaved parking spaces.

A parking schematic for the gravel parking lot must be submitted to the City's Building and Safety Division. The appellant is requesting that all parking on the subject property be taken into consideration and limited. If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- g. Limit the seating capacity of the church to 375 seats.

If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

- h. The applicant should be prohibited from using SRC 133.130 (c) to increase the parking.

SRC 133.130 (c) permits the City to authorize the joint use of parking areas by the following uses or activities in every district under the following conditions ("daytime" and "nighttime" uses are classified in SRC 133.140). Up to 100 percent of the parking spaces required by code for a church or for an auditorium incidental to a public or private school may be satisfied by the off-street parking spaces provided by daytime uses. The applicants may choose to execute a properly drawn legal instrument for joint use of off-street parking facilities pursuant to SRC 133.130 (f).

If required by the Commission, the appellant should be required to provide findings showing that this insures compliance with the Conditional Use approval criterion.

7. The City Attorney's office advises:

"By way of general response, I would reiterate the recommended analysis contained in my recently disseminated memo on conditions. Re questions 1 and 3: such limitations are defensible conditions if they are necessary to insure compliance with an approval criterion. I don't know enough about the relationship between seating, parking generation, & parking impacts from an unimproved lot on the neighborhood to answer the questions. A rule of reason should be applied to any condition application and with respect to the second question, if there is no justification to impose a requirement of a particular consultant, the condition should not be entertained. Lastly, an ancillary or subordinate uses are defined in the code as 'conducted in furtherance of the primary activity.' Courts and LUBA will defer to your reasonable interpretation on this. I in turn will defer to your (my client's) making of the interpretation in the first instance and can then review it in light of the legal standards."

### **DISCUSSION OF ALTERNATIVES**

The Planning Commission has two alternatives:

1. Affirm the March 31, 1999, Hearings Officer decision and grant the Conditional Use.

The present decision is not supported by the appellant. Alternative conditions of approval have been presented by the appellant.

2. Remand or modify the March 31, 1999, Hearings Officer's decision and deny or modify the Conditional Use.

Under this alternative, the appellant will need to submit written findings supporting denial or modification of the Hearings Officer's decision. The state mandated 120-day decision period ended on May 13, 1999.

### **RECOMMENDATION**

That the Planning Commission adopt the facts and findings and approve Alternative No. 1 and affirm the March 13, 1999 Hearings Officer's decision.

- Attachments: A.. April 10, 1999 Hearings Officer decision and staff report  
B. Hearings Officer Minutes  
C. April 16, 1999 Appeal Letter  
D. May 10, 1999 Letter from Ken Sherman, Jr.

Prepared by Lynnette Martino, Associate Planner

cu99-1ap.lcm

CITY OF SALEM  
BEFORE THE HEARINGS OFFICER

IN THE MATTER OF APPLICATION )	CONDITIONAL USE CASE NO. 99-1
OF WILLAMETTE CHRISTIAN )	
FELLOWSHIP TO ALLOW AN )	FINDINGS OF FACT
UNPAVED PARKING LOT WITHIN )	CONCLUSIONS, AND
500 FEET OF AN "R" DISTRICT IN A )	DECISION
PE (PUBLIC AND PRIVATE )	
EDUCATIONAL SERVICES) ZONE )	
FOR PROPERTY AT 255 COLLEGE )	
DRIVE NW. )	

DATE AND PLACE OF HEARING:

March 10, 1999, Council Chambers, Civic Center, Salem, Oregon.

APPEARANCES:

Lynnette Martino, Associate Planner, appeared for the Planning Staff, recommending granting of the application, subject to seven conditions.

NEIGHBORHOOD ASSOCIATION:

West Salem Neighborhood Association submitted a response supporting the application.

PROPOSERS:

Bruce Brittsan.

OPPOSERS:

Craig Urbani.

SUMMARY OF THE APPLICATION AND HEARING

This is a conditional use application to allow an unpaved parking lot within 500 feet of an "R" district for property located at 255 College Drive NW. The application was filed by Willamette Christian Fellowship which seeks the conditional use permit for the graveled parking lot to serve the school and church operating on the property at 255 College Drive NW. The application seeks to permit unpaved parking in an area north of the existing buildings, and the site plan depicts approximately 72 unpaved parking spaces in that area. Applicants are proposing to complete the improvement of the parking lot in five years. The unpaved parking lot contains approximately 13,600 square feet and is

located adjacent to College Drive NW. Applicants indicated they are proposing to develop the parking lot in two stages, the first stage of which would be to develop a landscape buffer along College Drive, add bumper or wheel guards, and mark the ingress and egress points to the parking lot. They are proposing to complete the improvement of the lot in five years.

The Staff Report was favorable to granting of the conditional use, subject to seven conditions. The West Salem Neighborhood Association submitted a response supporting the application with one suggested condition, namely, that egress to College Drive should be paved to avoid movement of stone and soil from the parking area onto the public road.

One witness appeared in opposition questioning whether additional parking was needed for school use and contending that the church cannot be considered an ancillary use, emphasizing that College Drive is a substandard local street. The witness expressed concern about expansion of the church parking and requested the record to be open for at least seven days to allow him to submit additional testimony. At the conclusion of the hearing, the Hearings Officer granted the witness Craig Urbani to submit written information within seven days, following which the applicant had seven days to respond.

Subsequently, the Hearings Officer received a letter from Mr. Craig A. Urbani dated March 17, 1999 and also a letter from applicant's attorney, Kenneth Sherman, Jr. dated March 22, 1999 which have been carefully reviewed and made part of the record.

The Hearings Officer concurs with the following statement contained in the letter of applicant's attorney as follows:

“ \* \* \* The primary use of the applicant's 12-acre property is as the campus for Salem Academy, a private, religious-based school. As an ancillary activity, the applicant conducts church services for a few hours each week, using only a small part of the total facility. This constitutes a 'minor function relative to the school.' ”

“The applicant does not seek an expansion of its church-related activities on its property, and has no current plans to do so. If and when it decides that such expansion is needed, the applicant understands that it will have to obtain city approval, at least in the form of a building permit, and perhaps in the form of other approvals as well. Approval of this conditional use permit is not being sought to facilitate any expansion in the operations of either the school or the church, but rather to provide adequate off-street parking to serve the existing operations. \* \* \* ”

Having considered the testimony and evidence submitted, the Hearings Officer now makes the following



## FINDINGS OF FACT AND CONCLUSIONS

1. This is a conditional use application to allow an unpaved parking lot within 500 feet of an “R” district in a PE (Public and Private Educational Services) zone for property at 255 College Drive NW.

2. Willamette Christian Fellowship filed this conditional use application to permit unpaved parking located north of the existing buildings. The applicant’s site plan shows approximately 72 unpaved parking spaces located north of such buildings.

3. The applicants are proposing to develop the parking lot in two stages. The first stage would be to develop a landscaped buffer along College Drive, add bumper or wheel guards, and mark the ingress and egress points to the parking lot. The applicant is proposing to complete the improvement of the parking lot in five years. The unpaved parking lot contains approximately 13,600 square feet and is located adjacent to College Drive.

4. The applicants indicate that the private school/church facility does not have sufficient improved off-street parking spaces. The proposal to keep the unpaved parking will meet their overall development plans for the site, and applicant indicates that there are approximately 82 designated spaces on the site for both uses, and a minimum of 126 parking spaces are needed to comply with Code.

5. SRC 133.122(b) states:

“Surfacing: Except as provided in SRC 133.220, or as an approved conditional use, all parking and loading areas shall be paved with asphalt, concrete, or other hard surfacing approved by the director of public works, and shall be adequately designed, graded, and drained to the approval of the director of public works.”

Therefore, the proposal was required to be processed by a conditional use application.

6. The Salem Area Comprehensive Plan (SACP) map designates the subject property as “Community Services.” The subject property is zoned PE (Public and Private Educational Services). The “Community Service” designation includes sites and facilities for uses, such as health and medicine, religion, education, culture, government, including cemeteries, airports, and waste disposal. The zoning of the subject property conforms with this designation.

7. The area east of College Drive is designated “Single Family Residential” on the SACP map. The “Single Family Residential” designation reflects the general land use pattern in the areas, which is for single-family dwellings, although residential support services, including schools, parks, and churches are also permitted land uses.

8. The subject property currently contains a private elementary/secondary school associated with a church. The site plan indicated there are approximately 23 paved off-street parking spaces on the site. The current unpaved parking spaces are located north of the existing buildings. These spaces are existing unimproved spaces. The applicant indicates that they are planning to improve these spaces to meet Code requirements to serve both the school and church facilities.

9. The PE zone permits private as well as public educational uses. Educational Services (SICV # 82) Religious Organizations (SIC #86) are not permitted, special or conditional uses in the PE zone. If used as an ancillary use, it is permitted if the church comprises a minor function relative to the private, religious-based school. At the time the applicant submits a paving schematic for the parking area, all minimum and maximum parking improvement requirements will be reviewed for compliance with the Zone Code.

10. The surrounding area is zoned and used as follows:

North/East:	RS (Residential Single Family); single family dwellings
West:	Outside City limits
South:	RM-2 (Residential Multi-Family), condominiums.

11. Improvement of the parking lot is subject to the landscaping provision of SRC 132.230(a) which requires the improved portion of a parking lot to be separated from the exterior wall of a structure by a 5-foot wide landscaped strip planted with a minimum of one (1) plant unit per twenty (20) square feet of yard area, or by a 5-foot wide paved pedestrian walkway. The minimum 5-foot building setback should be required at this time. Wheel guards or bumpers should be placed so that parked vehicles do not overhang the 5-foot separation. At the time the parking lot is improved, the setback will be required to be landscaped or an improved concrete sidewalk installed. The applicant's site plan shows that this setback can be accommodated for the graveled lot.

12. SRC 132.230(d)(1) requires a landscaped strip to be provided on the property between the vehicular use area and the right-of-way. The applicant indicates that it is willing to provide a minimum 10-foot wide landscaped strip along College Drive. The landscaped strip should be planted with a minimum of one plant unit per 20 square feet of yard area.

13. SRC 132.230(d)(3)(D) requires deciduous trees to be planted within all parking lots on the basis of one tree for each 12 parking spaces. The required trees may be clustered in planter bays or islands to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect. The applicant's site plan identifies the location of some trees on the site. The existing trees on the site could be required to be augmented to meet this standard. However, it is impractical to require additional

interior parking lot landscaping until the design of the parking lot can incorporate drainage, landscaping materials, and an irrigation system.

14. SRC 133, Table 133-3 specifies dimensional requirements for parking areas. Paving of the parking lot will be required to conform to SRC Chapters 132 and 133 regardless of the current layout for the graveled lot, parking spaces, aisle ways and maneuvering areas. The applicant's site plan shows that the parking lot dimensional requirements of SRC 133 can facilitate improved access and maneuvering area when the parking lot is improved.

15. The subject property contains approximately 12+ acres. The site is located on a hill at the south site of the intersection of College Drive and Turnage Street NW. The unpaved parking lot is located adjacent to College Drive, and occupies approximately 13,600 square feet of the 12+ acres. The subject site contains a variety of evergreen and deciduous trees. There are no identified hazard areas that have to be taken into consideration for the development of the proposed unpaved parking lot.

16. College Drive is designated a local street in the Salem Area Transportation Plan. Turnage Street is also as local street. Both streets primarily serve residential uses. College Drive currently is substandard in right-of-way width and improvement. There are no curbs or sidewalks along either side of College Drive in this location. Public Works Department comments do not recommend sidewalk or street improvements to College Drive as a result of this conditional use request.

17. The applicant's site plan shows that there are existing paved parking spaces in front of the buildings that maneuver into the right-of-way of College Drive. These spaces are existing and considered legal nonconforming spaces. At the time of improvement of the parking lot, consideration should be given to relocating these spaces so as to prevent maneuvering and backing problems on the street.

18. The applicant's site plan for the graveled parking area shows that the spaces are 10 feet wide by 20 feet deep. The site plan shows stacked or tandem spaces located adjacent to the improved driveway and parking lot. Stacked, or tandem, parking spaces are not permitted in nonresidential zoning districts. Once the parking area is improved, the tandem parking will have to be relocated or the parking lot layout revised to meet all minimum aisle and maneuvering area dimensional requirements in SRC Chapter 133.

19. The State Transportation Planning Rule (TPR) specifies a connection between development and streets and pedestrian facilities. Under the Rule, developments are responsible for providing for the safe and efficient circulation of vehicles, bicycles, and pedestrians into, through, and out of a development. That connection is provided via planned sidewalks along College Drive.

Improvements of the parking lot to City design standards will provide transportation access to and from the development. College Drive connects the subject property to transit services, pedestrian systems, and bicycle facilities that exist along major streets within the area and school facilities that are located within the West Salem area.

The conditional use in this case should be limited to a maximum term of one year, with the provision that it can be renewed annually upon written request by the applicant. Otherwise, the parking lot would be required to be fully improved and landscaped. Once the parking lot is improved for improved pedestrian access in and through the site, and to the planned public sidewalk system within College Drive, the development will comply with the TPR.

20. Conditional uses may be permitted, but review is necessary to determine what, if any, conditions should be imposed. SRC 117.020(b) states that:

No use for which a conditional use approval has been granted shall be changed to another conditional use or expanded or relocated, nor shall any building or structure devoted to such use be structurally altered or enlarged unless there has been granted a separate conditional use approval for such change, expansion, relocation, structural alteration or enlargement pursuant to this chapter.”

21. SRC 117.030 allows the imposition of conditions as to any matters set forth in SRC 113.205(b) upon finding that the proposed use:

- (1) Conforms to all criteria imposed by applicable goals and policies of the comprehensive plan in light of its intent statements; and
- (2) Minimizes any reasonably likely adverse impacts of the proposed use and development to the immediate neighborhood.

22. Analysis of the Conditional Use Criteria.

**Conformance to criteria imposed by applicable goals and policies of the comprehensive plan in light of its intent statements:** SRC 117.030(1). As described above, the proposed conditional use will permit the applicant to utilize an existing but unpaved parking area.

(a) The applicant indicated that it is its intent to complete the paved improvement of the parking lot in five years. Granting the conditional use does not reduce or eliminate the minimum/maximum parking requirement, nor does it permit temporary unpaved parking privileges for any other permitted use in the PE Zone. A time limit on improving the parking lot is necessary to insure that the parking lot is

paved, all minimum dimensional standards are met, the lot is landscaped, and drainage installed.

A temporary, renewable permit, for a total of no more than four additional years, can be considered as long as the applicant shows it is necessary for a genuine need for graveled parking. A temporary permit could be renewed annually. The applicant indicates that allowing temporary graveled surface parking facilitates their planning process to update the facilities on the site.

To renew a temporary permit annually, the applicant shall be required to submit written findings that the facts upon which the approval was originally based have not changed to an extent sufficient to warrant an entirely new adjustment application. If the Planning Administrator finds a substantial change in the circumstances upon which approval was originally granted, a new conditional use application can be required for the renewal.

(b) The graveled parking area should be required to be improved with a minimum of four inches of base rock covered by a minimum of two inches of three-quarter inch or smaller crushed rock as a leveling course, except that, graveled parking and loading areas used exclusively by passenger cars need only be improved with a minimum of three inches of base rock. This is consistent with Public Works Department recommendations that base rock be provided.

(c) Wheel barriers should be required to designate and protect each parking space. Parked vehicles should not overhang the right-of-way along College Drive. A minimum separation should be maintained by wheel barriers between the parking spaces and buildings. Parking lot signing should be provided in accordance with SRC, Chapter 62, to indicate direction, and the graveled parking area should be limited in area to not exceed 15,000 square feet.

23. General Development Policy 12:

“Land use regulations which govern the siting of any development shall encourage development to reduce its impact on adjacent properties by screening, landscaping, setback, height, and mass regulations.”

The graveled parking and loading areas should be required to be screened from all adjacent residential uses by a sight-obscuring fence, wall, or hedge.

A landscaped area should be provided that is a minimum 10-foot wide area planted with a minimum of one plant unit per 20 square feet of yard area and should be

required along the perimeter of the graveled parking area and College Drive. The perimeter landscaping could be incorporated into the sight obstruction screening requirement if the setback is a minimum of 10 feet from the right-of-way line.

24. Transportation Policy 3:

“The transportation systems shall be designed to provide adequate access for fire and police protection, public transit, pedestrian walkways and bikeways with the least negative effect on developed areas.”

No new access to College Drive is proposed. The temporary internal circulation system can serve emergency vehicle access. The site plan shows that the parking lot and the subject property are accessible to existing transit routes. Internal access in and through the site is available through maneuvering aisles and driveways. Base rock required for parking spaces is also required for maneuvering aisles and driveways to reduce the amount of dust and mud and to provide a sufficient base to carry the weight of passenger vehicles.

25. Transportation Policy 12:

“Adequate off-street parking shall be provided for all commercial development. When appropriate, transit services and shelters shall be provided in lieu of some off-street parking. Parking and loading facilities shall be designed so that ingress and egress driveways do not disrupt the efficient flow of traffic on arterial streets, intrusion into abutting uses is minimized, and safe and convenient pedestrian circulation is provided.”

The parking spaces adjacent to the buildings on the site should be a minimum of five feet from the exterior walls. Wheel guards or bumpers should be placed so that the vehicle does not overhang the five foot separation or the public right-of-way.

The applicant indicates it is aware that the minimum improved parking requirement for the church and the school are currently not being met. The addition of a maximum of 72 unpaved parking spaces for a period not to exceed one year and annually renewable facilitates the church’s plans for development of the site to Code.

26. **Minimizing any reasonably likely adverse impacts of the proposed use and development to the immediate neighborhood:**  
SRC 117.030(2).

Public Works Department commented that no additional right-of-way dedication is required for the proposal and has no objections as long as the criteria in SRC Chapter 132.220(b)(3)(4) and (5) are met. Compliance with the applicable development standards of the City Zone Code, Uniform Building Code, and other pertinent regulations and

policies should insure that public health and safety is protected and that adverse consequences are minimized.

27. The Hearings Officer finds that the applicant has addressed the criteria under SRC 117.030, and the conditional use request shall be granted, subject to the conditions hereinafter stated.

Based upon the foregoing, the Hearings Officer makes the following

#### DECISION

The requested conditional use application to allow an unpaved parking lot within 500 feet of a "R" district in a PE (Public and Private Educational Services) zone for property located at 255 College Drive NW is GRANTED subject to the following conditions:

(1) The temporary graveled parking lot permit is limited to a maximum of 72 unpaved parking spaces as shown on the applicant's site plan for the existing private school/church facility and is limited to one year. The temporary permit may be renewed annually for a total of no more than four additional years. The applicant shall submit a request in writing to renew the permit on an annual basis; otherwise, the parking lot is required to be completely improved to Code standards.

When requesting the renewal of an annual temporary permit, the applicant shall submit a written statement reciting that the facts upon which the approval was originally based have not changed to an extent sufficient to warrant an entirely new adjustment application. If the Planning Administrator finds a substantial change in the circumstances upon which approval was originally granted, a new conditional use application can be required for the renewal, or the parking lot may be required to be completely improved.

(2) The temporary graveled parking area shall be improved with a minimum of four inches of base rock covered by a minimum of two inches of three-quarter inch or smaller crushed rock as a leveling course, except that, graveled parking and loading areas used exclusively by passenger cars need only be improved with a minimum of three inches of base rock.

(3) Wheel barriers shall be installed to designate each parking space. The parking spaces adjacent to the buildings on the site shall be separated a minimum of five feet from the exterior walls. Wheel barriers shall be placed so that parked vehicles do not overhang the five-foot separation or the public right-of-way.

(4) Parking lot signing shall be provided in accordance with SRC Chapter 62 to indicate direction.

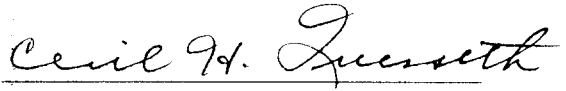


(5) The temporary graveled parking area is limited in area not to exceed 15,000 square feet.

(6) The temporary graveled parking area shall be screened from all adjacent residential uses by a sight-obscuring fence, wall, or hedge.

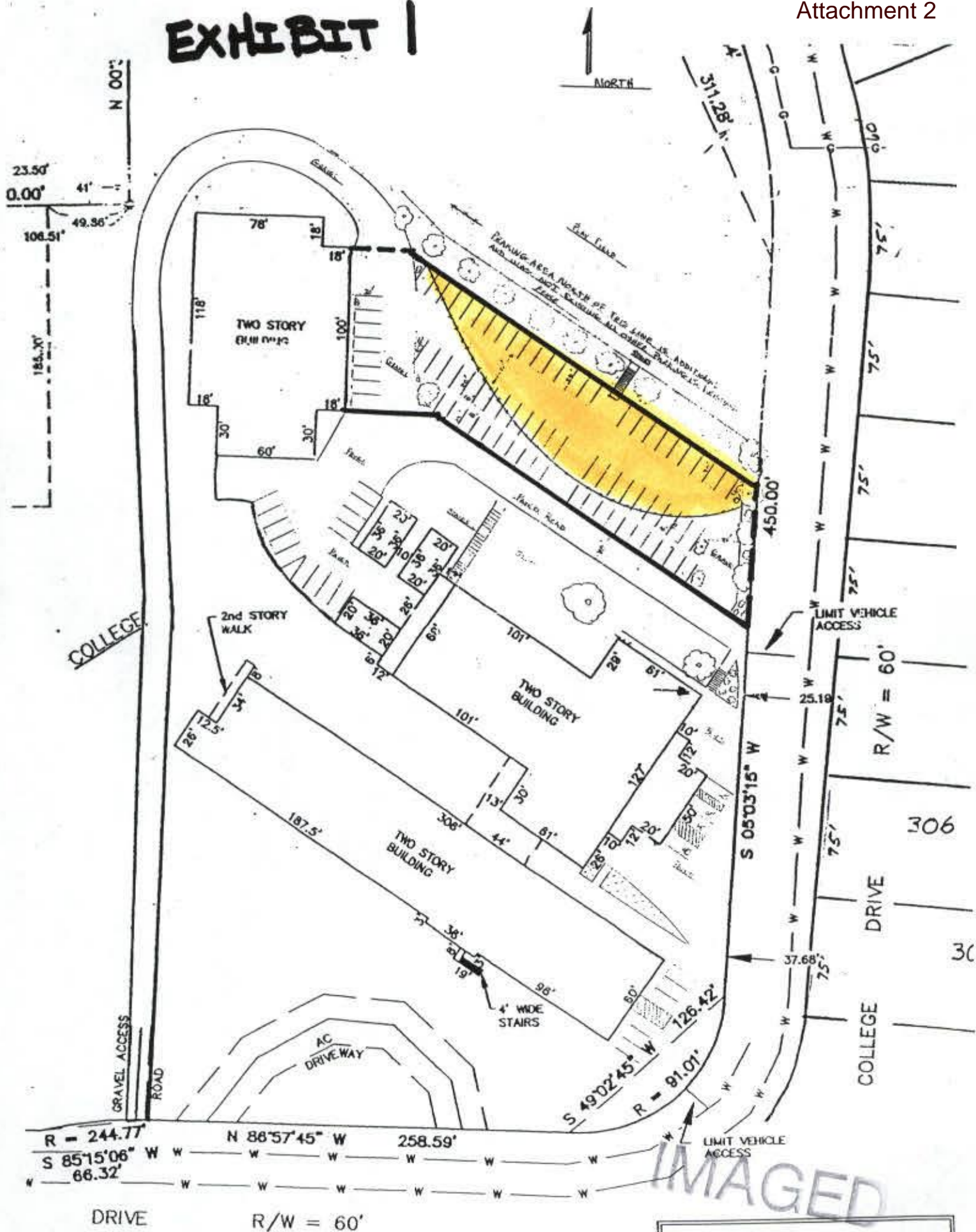
(7) A landscaped area at least ten feet in depth, planted with a minimum of one plant unit per 20 square feet of yard area (refer to Table 132-3) shall be located along the perimeter of the graveled parking area and College Drive NW. If the planting is sight-obscuring, it may count toward meeting the sight-obscuring screening requirement adjacent to residential uses.

DATED March

  
CECIL H. QUESSETH  
Hearings Officer

# EXHIBIT 1

Attachment 2



IMAGED

ATTACHMENT 3

