


TO: HEARINGS OFFICER

FROM: BRYAN COLBOURNE, AIC PLANNING ADMINISTRATOR 

DATE: NOVEMBER 25, 2015

SUBJECT: SUPPLEMENTAL STAFF REPORT FOR QUASI-JUDICIAL ZONE
CHANGE-TENATIVE PARTITION PLAN FOR PROPERTY LOCATED AT
3155-3175 RIVER ROAD S

BACKGROUND

1. On October 9, 2015, a consolidated zone change and partition application was filed for the subject property by Terrence Kay on behalf of applicant/property owner River Building LLC to change the zoning of a portion of the subject property from CR (Retail Commercial) to CO (Commercial Office), and to partition the full extent of the 1.89 acre subject property into three parcels.
2. The subject property bears split Salem Area Comprehensive Plan Map designations and zoning, divided along historic city limits which once ran across the property. The westernmost portion of the property is designated on the Plan Map as "Developing Residential" and zoned RA (Residential Agriculture). The remaining eastern portion of the subject property is designated "Commercial" and zoned CR (Retail Commercial).
3. In conducting its initial review of the consolidated application, staff misunderstood the portion of the subject property that the applicant has requested to rezone. Staff incorrectly interpreted the application for a zone change as a request to change the zoning of the entire CR-zoned portion of the subject property. Analysis contained in the staff report dated November 10, 2015 was also based on this misunderstanding of the property to be included in the rezone request. In later correspondence, the applicant clarified that the application was only meant to request a zone change on the CR-zoned portion of proposed Parcel 3. The correct area subject to the zone change request from CR to CO is shown on Attachment A.
4. On November 17, 2015, the Hearings Officer held a public hearing to consider Zone Change-Partition Case No. ZC-PAR15-04. During the public hearing, additional testimony was submitted by the applicant. Due to the misunderstanding of the proposal reflected in the November 10, 2015 staff report, staff declined to provide a written recommendation on the request without further time to evaluate the applicant's actual, correct proposal. Prior to closing the public hearing, the Hearings Officer requested that staff provide supplemental analysis reflecting staff's understanding of the correct boundaries of the proposed zone change by November 25, 2015. The Hearings Officer subsequently closed the public hearing, but left the record open for additional staff findings and written rebuttal by the applicant. This supplemental report provides the requested staff findings.

FACTS AND FINDINGS

1. The area proposed to be rezoned from CR (Retail Commercial) to CO (Commercial Office) is within proposed Parcel 3. The area of the rezone extends approximately 150 feet south

from the northeast corner of the subject property, and perpendicular from that line extends westward to the existing boundary between Comprehensive Plan and zoning designations. The request would result in split zoning between CO and RA zoning on Parcel 3. The area within Parcels 1 and 2 would remain split-zoned between CR and RA zoning.

2. Staff has reviewed the correct area of the site included in the zone change request for conformance with the applicable rezone criteria established in SRC 265.005. Staff finds that the clarification of the area of the rezone request would not affect compliance with criteria SRC 265.005(1)(B) through (G) and SRC 265.005(2), and findings on these criteria contained in the November 10 staff report are relevant without supplement. The following approval criteria are applicable to the analysis of the clarified area of the rezone request:

SRC 265.005(1)(A)

The zone change is justified based on one or more of the following:

- (i) A mistake in the application of a land use designation to the property.***
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the zone would be compatible with the vicinity's development pattern.***
- (iii) A demonstration that the proposed zone change is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.***

Pursuant to SRC 265.005(1)(A), the November 10, 2015 staff report found that a change of the entire CR-zoned portion of the property to CO would be justified based on sub-criterion SRC 265.005(1)(A)(iii). Although the rezoning of the entire CR-zoned portion of the property would leave split zoning and comprehensive plan designations on all three proposed parcels, staff found that the surrounding residential development and relatively poor suitability of the rear portion of the property for retail development rendered the proposed CO zone equally or better suited than the existing CR zone. The physical characteristics of the property which staff found detrimental to retail uses on the entire CR-zoned portion of the property still apply to the smaller portion of the property that the applicant has requested to rezone. In particular, the lack of access and visibility from River Road S impacts the suitability of retail most strongly on the far northern part of the subject property, coinciding with the area of the rezone. Staff finds that the actual, clarified proposal to change zoning on the CR-zoned portion of Parcel 3 meets this criterion.

3. The tentative partition plan proposes to divide the subject property into three parcels (Attachment B). Proposed Parcel 1, which is approximately 45,385 square feet in size, is located on the south side of the property abutting River Road S. Proposed Parcel 2, which is approximately 17,214 square feet in size, is located in the middle of the subject property.

Proposed Parcel 3, which is approximately 19,729 square feet in size, is located on the northern side of the subject property.

Because the actual, clarified zone change request would result in a different combination of split zones (CR and RA as opposed to CO and RA) being applied to proposed Parcels 2 and 3, staff has reviewed the partition for compliance with applicable standards under the correct combination of zones on that portion of the property.

The existing office and basic education uses on proposed Parcel 1 are allowed in the CR zone. The CR zone does not include minimum standards for lot area, lot width, or lot depth. Street frontage requirements and interior front and side zone-to-zone setbacks are identical to those in the CO zone, which the November 10, 2015 staff report found that each of the proposed parcels has met. The CR zone does not include maximum lot coverage standards.

4. The applicant has proposed a flag lot accessway along the western portion of the property to serve proposed Parcels 2 and 3. The flag lot accessway would extend an existing driveway serving development on proposed Parcel 1. Pursuant to SRC 800.025(c), a flag lot accessway serving 1-4 lots of non-residential zoned property must be a minimum total width of 25 feet, 20 feet of which must be paved. The maximum flag lot accessway length of 400 feet shall not apply where geographic features make it impractical, and when approved by the Planning Administrator following review and recommendation by the Fire Marshal. Given the long, narrow shape of the site and the existing development on three sides, staff finds that the geographic features of the subject property make the maximum flag lot accessway length standard impractical in this case.

The applicant will be required to satisfy any applicable Fire Department requirements for development on Parcels 2 and 3 at time of building permit.

5. A solid waste receptacle service area and possibly some parking appear to be within the area proposed for the flag lot accessway. Pursuant to a 2012 Site Plan Review approval, the parking lot was restriped to provide a minimum of 24 off-street parking spaces, the minimum number of spaces required to serve the office and basic education uses on the subject property (Attachment C). Under the proposed partition, each of the existing uses and all existing off-street parking spaces would be located on proposed Parcel 1. In order to ensure that the extension of the flag lot accessway does not result in the number of off-street parking spaces provided on Parcel 1 being diminished below minimum requirements, staff recommends the following condition of final plat approval:

Condition 4: Provide at least the minimum number of off-street parking spaces required for existing uses on Parcel 1. Such required off-street parking for uses on Parcel 1 may be located on Parcel 1 or on surrounding properties pursuant to the requirements of SRC Chapter 806, but may not be located within the proposed 25-foot-wide flag lot accessway serving Parcels 2 and 3.

In the event that the existing solid waste service area is relocated, or a new solid waste, recycling, or compostable receptacle of 1 cubic yard or larger is proposed elsewhere on the property, it would be subject to development standards pursuant to SRC 800.055.

RECOMMENDATION

Staff recommends that the Hearing Officer approve this consolidated application for zone change and tentative partition subject to the three conditions of approval recommended in the November 10, 2015 staff report and the one additional condition described in this supplemental staff report, above. All four recommended conditions of approval are listed together, below:

A. Staff recommends that the Hearings Officer APPROVE the Zone Change request from Retail Commercial (CR) to Commercial Office (CO).

B. Staff recommends that the Hearings Officer APPROVE the tentative partition request, subject to the following conditions of final plat approval:

Condition 1: Provide a stormwater utility plan showing existing stormwater systems for Parcels 1 and 2 and design a stormwater system to serve proposed Parcel 3 in compliance with Public Works Development Standards. Provide easements on the final plat as warranted.

Condition 2: Show all necessary access and utility easements on the plat to the satisfaction of the Public Works Director.

Condition 3: Provide a 10-foot-wide public utility easement along the entire right-of-way frontage of River Road S.

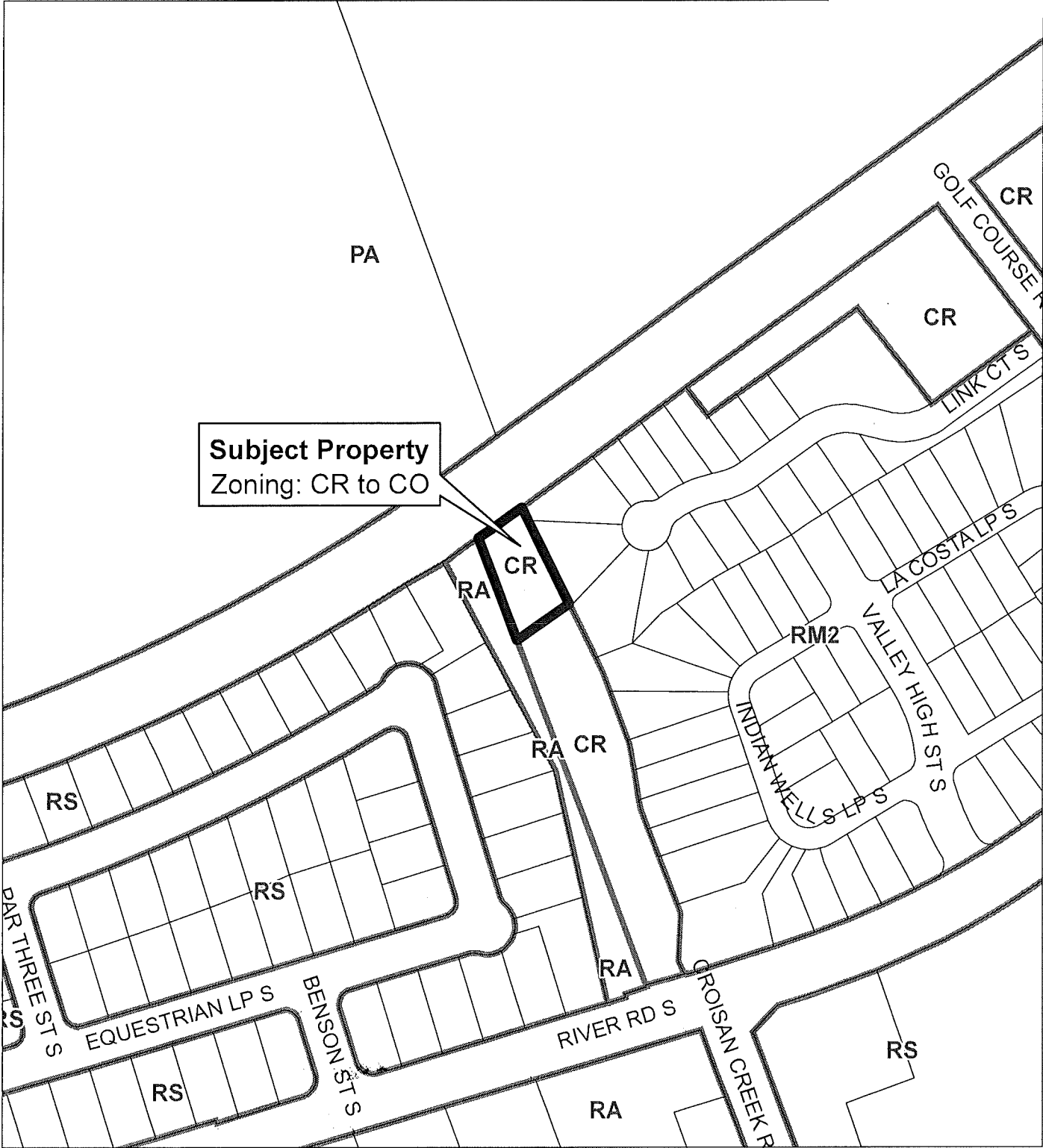
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Attachments: A. Map showing area subject to the re-zone request
B. Tentative Partition Plan
C. Site Plan Review decision, Case No. 12-112012-RP

Prepared by: Christopher Green, Planner II

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Zone Change/Partition 15-04



Legend

- Base Zoning
- Urban Growth Boundary
- Outside Salem City Limits
- Taxlots
- Parks
- Schools

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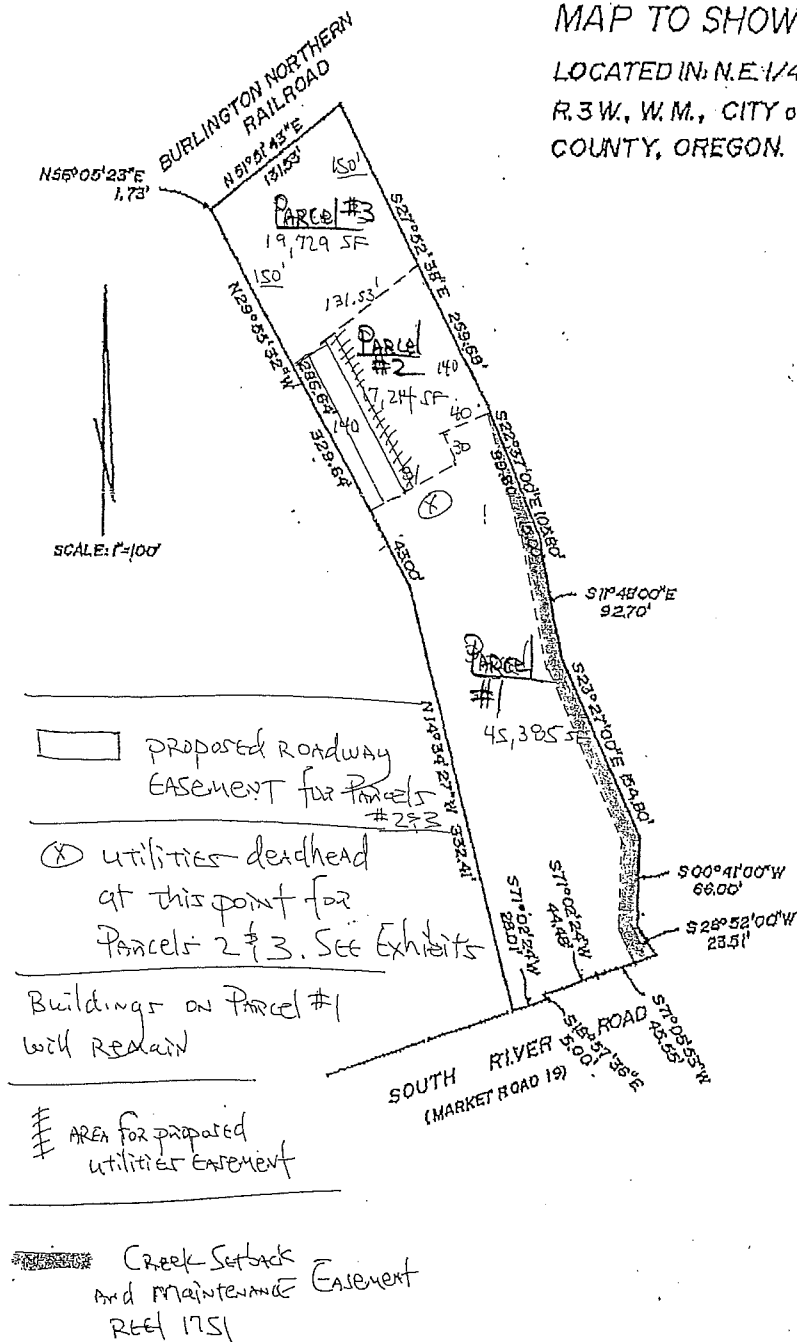
CITY OF *Salem*
AT YOUR SERVICE
Community Development Dept.

Revised - Tentative Partition Plan

Owner: River Building LLC, 3155 River Rd. So. Suite 150 Salem OR 97302
Surveyor original plan: Matt Dunckel, 3765 Riverside Dr. McMinnville OR 97128
Updated October 26, 2015 for this Application

MAP TO SHOW DESCRIPTION

LOCATED IN: N.E. 1/4, SEC. 5, T. 8 S.,
R. 3 W., W. M., CITY of SALEM, MARION
COUNTY, OREGON.





Planning Division * 503-588-6173
City Hall * 555 Liberty St SE, Room 305 * Salem, OR 97301-3503 * Fax: 503-588-6005

Type I Site Plan Review
Case No. 12-112012-RP

August 3, 2012

Subject Property: 3165 River Road S

Applicant: Krysti Corvsey
3165 River Road S
Salem, OR 97302

Phone: (503) 302-9398
Email: krysti@myrootsacademy.com

Contact: Clayton Vorse
Arbuckle Costic Architects
363 State Street
Salem, OR 97301

Phone: (503) 581-4114
Email: cvorse@arbucklecostic.com

Zone: CR (Retail Commercial) and RA (Residential Agriculture)
Comp. Plan: Commercial and Developing Residential

REQUEST

A Type I Site Plan Review for a change of use to an educational service use (SIC 821), and additional parking lot striping for property approximately 1.9 acres in size, zoned CR (Retail Commercial) and RA (Residential Agriculture), and located at 3165 River Road S (Marion County Assessor's Map and Tax Lot number: 083W05AA / 100).

FINDINGS

Site plan review is intended to provide a unified, consistent, and efficient means to review proposed development that requires a building permit, other than single-family, duplex residential, and installation of signs, to ensure that such development meets all applicable requirements imposed by the Salem Revised Code (SRC). SRC 163.020(c) requires Type I Site Plan Review for development that does not involve a land use or limited land use decision, as defined by ORS 197.015.

1. Approval Criteria

SRC 163.070(a) provides that approval of a Type I Site Plan Review application shall be granted if the Planning Administrator finds that only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the application, and that the applicant has met all the applicable standards.

Based on conformance with the following requirements, the Planning Administrator finds that only clear and objective standards of the Salem Revised Code apply to the proposed site plan for property located at 3165 River Road S, the proposed site plan complies with all such clear and objective standards in accordance with SRC 163.070(a).

2. Site Plan Quality

The applicant's site plan is drawn to scale, with correct lot dimensions, and is in conformance with the site plan requirements of SRC 163.050. A copy of the site plan is included as Attachment A.

3. Zoning Code Compliance

a. Land Use:

The subject property is split zoned CR (Retail Commercial) and RA (Residential Agriculture). Development of the property is subject to the provisions of the CR zone district (SRC Chapter 152) and the RA zone district (SRC Chapter 145). The proposal includes a change of use to an educational service use for a private school, classified as an amusement and recreation service, SIC 821, which is allowed as a permitted use in the CR zone, and is allowed as a special use subject to additional development standards in the RA zone. The proposed development only occurs on the CR zoned portion of the property.

b. Development Standards:

i. Setbacks:

The following is a list of applicable setbacks and landscaping adjacent to surrounding uses:

North - Adjacent to the north is railroad Right-of-Way. Chapter 132 provides that bufferyards are applicable where the construction of or addition to a structure or vehicular or pedestrian use area increases the total area of the lot covered by structures, paving or both by more than fifty percent. Because the proposal does not result in an increase in lot coverage of 50 percent or more, bufferyards are not applicable to the north.

South - Adjacent to the south is right-of-way for River Road S. Chapter 152.080(a) requires a minimum five foot setback adjacent to a street, and Chapter 132.230(d)(1) requires a minimum ten foot wide landscape strip between a vehicle use area and the right-of-way.

West - Adjacent to the west is RS (Single Family Residential) zoning occupied by single family dwellings. Chapter 132 provides that bufferyards are applicable where the construction of or addition to a structure or vehicular or pedestrian use area increases the total area of the lot covered by structures, paving or both by more than fifty percent. Because the proposal does not result in an increase in lot coverage of 50 percent or more, bufferyards are not applicable to the west.

East - Adjacent to the east is RM2 (Multi-Family Residential) zoning occupied by single family dwellings and attached townhomes. Chapter 132 provides that bufferyards are applicable where the construction of or addition to a structure or vehicular or pedestrian use area increases the total area of the lot covered by structures, paving or both by more than fifty percent. Because the proposal does not result in an increase in lot coverage of 50 percent or more, bufferyards are not applicable to the east.

Finding: The proposed site plan complies with all applicable setbacks of Chapter 152 (Retail Commercial) and Chapter 132 (Bufferyards).

- ii. Height:
Pursuant to SRC Chapter 152.060, within the CR (Retail Commercial) zone, buildings and structures erected, altered, or enlarged shall not exceed 50 feet in height.

Finding: The only modification to the exterior of the building/site is additional striped parking.

c. Off-Street Parking

SRC Chapter 133 provides that off-street parking areas and off-street loading areas meeting the applicable requirements of this chapter shall be provided and maintained when the use of the building or structure is changed, and the changed use would require additional parking areas and off-street loading.

Finding: The subject property has an office building with storage as well as the building for the proposed private school. The parking requirement for the site is indicated in the table below:

Existing/Proposed Use	Requirement	Number of Parking Spaces
Office/Storage (7,116 SF)	1 Space/350 SF	20
Private School (2 Classrooms)	2 Spaces/Classroom	4
Total Required		24
Total Provided		24

The proposed site plan restripes the existing parking lot changing the total number from 22 to 24 spaces which provides enough parking spaces to comply with the minimum parking requirements of Chapter 133.

4. Natural Resources Review

Croisan Creek flows along the eastern boundary of the property, no new development is proposed within the boundaries of the riparian corridor. There are mapped areas of landslide hazards on the subject property that indicate a low landslide hazard risk, a geological assessment of the property is not required for the proposed development. The subject property is located within a mapped floodplain and floodway.

5. Historic Property Status

The subject property is not identified as a historic resource.

6. Land Use Actions

LLA01-11: To adjust the common lot line between two lots.

7. City Department Comments

The Public Works Department has reviewed the proposal and indicated that there may be TSDC's based on the new use and requirement for 2 additional spaces, however there is no building addition so there will be no right-of-way dedication or street improvements.

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

CONCLUSION

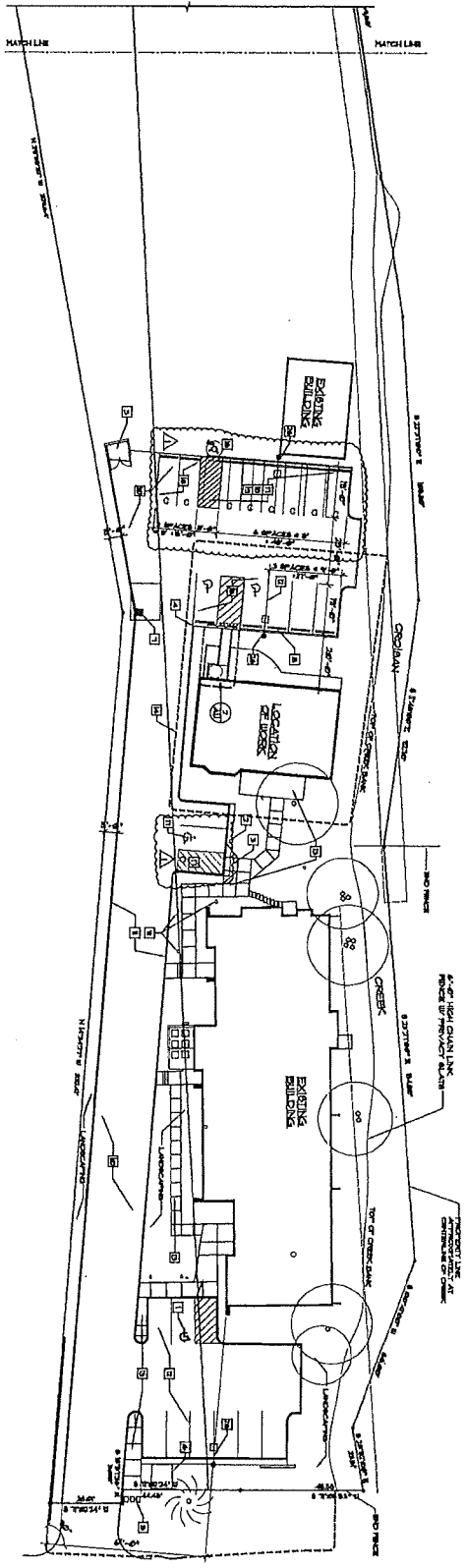
Final approval of the attached site plan is hereby GRANTED subject to SRC Chapter 163 and the applicable standards of the Salem Revised Code and providing compliance occurs with any applicable items noted above.

Please Note: Findings included in this decision by the direction of the Salem Fire Department are based on non-discretionary standards. Fire Code related findings are intended to inform the applicant of the clear and objective Fire Prevention Code standards of SRC Chapter 58 that will apply to this development proposal on application for building permit(s). Additional or different Fire Prevention Code standards may apply based on the actual building permit application submitted.

If a building permit application has not already been submitted for this project, please submit a copy of this decision with your building permit application for the work proposed.

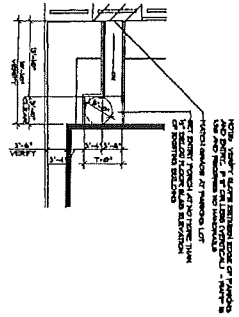
If you have any questions regarding items in this site plan review, please contact Aaron Panko at 503-588-6173 ext. 7556 or by email at apanko@cityofsalem.net. *AP*

Attachments: A. Site Plan

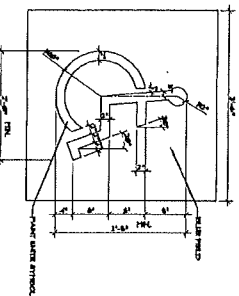


1 SITE PLAN
SCALE: 1" = 30'-0"

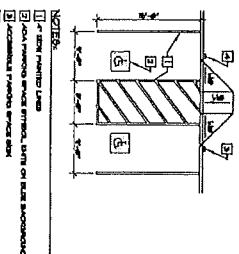
2 ENLARGED RAMP PLAN
SCALE: 1" = 10'-0"



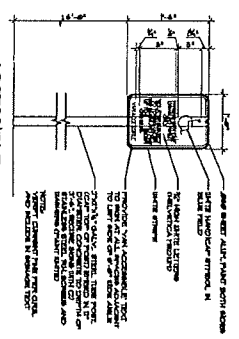
3 HANDICAPPED SYMBOL
SCALE: 1" = 1'-0"



4 ACCESSIBLE PARKING STALLS
SCALE: 1" = 10'-0"



5 ACCESSIBLE PARKING SPACE SIGN
SCALE: 1" = 1'-0"



- PLAN NOTES:**
1. EXISTING LANDSCAPE FEATURES
 2. EXISTING LANDSCAPE FEATURES SIGN
 3. EXISTING TRAIL SIGN
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SOUTH RIVER ROAD



CONSTRUCTION TO BE COMPLETED



DESIGNER
DATE
DRAWN
CHECKED
APPROVED

PROJECT
SHEET
A11