

TO: PLANNING COMMISSION

FROM: LISA ANDERSON-OGILVIE, AICP *LAO*  
PLANNING ADMINISTRATOR

SUBJECT: SUPPLEMENTAL REPORT – APPEAL OF HEARINGS OFFICER'S  
DECISION DENYING CONDITIONAL USE CASE NO. CU16-01 FOR  
PROPERTY LOCATED IN THE 1700-1800 BLOCK OF 23<sup>RD</sup> STREET SE

**SUMMARY AND BACKGROUND:**

A public hearing before the City of Salem Planning Commission was held on April 19, 2016, at 5:30 p.m. in the Salem City Council Chambers, Civic Center Room 240, located at 555 Liberty Street SE.

Planning Commission continued the public hearing until May 3, 2016. The record is open for all parties to submit written testimony until the close of the public hearing. New parties may provide oral testimony at the continued hearing.

A website has been created which includes copies of all testimony received for CU16-01. Site plans from previous building permit applications and LUBA Case No. 2008-114, referenced in the applicant's testimony, has also been included. The URL for the website if included below:

<http://prodshpnt1/Departments/CommunityDevelopment/Planning/CurrentPlanning/CU16-01/Pages/default.aspx>

**FACTS AND FINDINGS:**

The Planning Commission requested that staff research previously approved building permits on abutting property to see if there was any indication of the future phases, uses or a master plan which included development of the subject property.

Staff reviewed the following building permit and land division records:

1221 23<sup>rd</sup> Street SE – Multi-Tenant Retail Building  
1253 23<sup>rd</sup> Street SE – Sandwich Express  
1236 23<sup>rd</sup> Street SE – Carl's Jr.  
1238 23<sup>rd</sup> Street SE – Popeye's Chicken  
1252 23<sup>rd</sup> Street SE – Multi-Tenant Retail Building  
Partition Case No. 08-25

Staff discovered that some of the building permits and documents in the Partition file included conceptual plans for future development of the subject property. In each case

that a conceptual plan was discovered, the buildings and uses shown on the plan were for nonresidential uses, including industrial flex space, restaurant, office, retail and hotel uses. No plans for residential development on the subject property were found in these records.

The plans which show future development on the subject property are conceptual only. In the event that staff did discover a plan which showed future residential development on the property, the applicant would be subject to the same Conditional Use Permit process prior to establishment of a residential use on the property. No conditional use permit has been granted to allow residential development on the property.

While the previously approved plans may help establish the original intent or vision for how the entire property would be developed, past conceptual plans are not binding or relevant to the Conditional Use Permit Approval criteria.

An application for conditional use permit shall be granted if all of the following criteria are met:

- (1) The proposed use is allowed as a conditional use in the zone;
- (2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and
- (3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

Staff recommends that the Planning Commission affirm the Hearings Officer's denial of the Conditional Use Permit based on the approval criteria for a conditional use permit.



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Aaron Panko, Planner III  
Planning Administrator Designee