



LAND USE APPEAL APPLICATION

RECEIVED

JUN 21 2019

1. GENERAL DATA REQUIRED [to be completed by the appellant]

COMMUNITY DEVELOPMENT

SUB-ADJ19-02 June 6, 2019
Case # Being Appealed Decision Date

500-600 Blocks of Salem Heights Ave S, / 97302
Address of Subject Property

940 Salem Heights Ave S, Salem, OR 97302
Appellants Mailing Address with zip code

RE4069@comcast.net 503-991-0283
Appellant's E-mail Address Day-time Phone / Cell Phone

Appellant's Representative or Professional to be contacted regarding matters on this application, if other than appellant listed above:

Name Mailing Address with ZIP Code

E-Mail Address Day-time Phone / Cell Phone

2. SIGNATURES OF ALL APPELLANTS

Signature: Ron Eachus Date: 6-21-19

Printed Name: RON EACHUS

Signature: _____ Date: _____

Printed Name: _____

3. REASON FOR APPEAL Attach a letter, briefly summarizing the reason for the Appeal. Describe how the proposal does not meet the applicable criteria as well as verification establishing the appellants standing to appeal the decision as provided under SRC 300.1010

FOR STAFF USE ONLY

Received By: S. LONG Date: 4:34 P.M. 6.21.19 Receipt No: 18-125034-LD

Appeal Deadline: 6.21.19 5 P.M. Case Manager: OLIVIA GLANTZ

RON EACHUS

940 Salem Heights Ave S
Salem, Or 97302

June 21, 2019

*City of Salem Planning Division
Room 305
555 Liberty Street SE
Salem, OR 97301*

I, Ron Eachus, reside at 940 Salem Heights Ave S, Salem, OR 97302 and I have previously submitted comments in Adjustment Case No: SUB-ADJ19-02. As a resident of the Salem Heights Ave neighborhood affected by the subdivision and as previous participant in this case, I have standing to appeal the June 6, 2019 decision granting tentative approval to the application.

I am appealing the decision in Adjustment Case No: SUB-ADJ19-02 on the following grounds:

- A. The order failed to consider all of the criteria for a Traffic Impact Analysis (TIA) in SRC 803.015 (b)(2) and thus wrongly concluded that an analysis is not required under SRC 205.010(d)(7). The criteria in SRC 803.015(b)(2) should have been applied to the proposed subdivision and under that criteria a Traffic Impact Analysis should have been required. The subdivision should not be approved until a Traffic Impact Analysis is conducted and approved.**

SRC 205.010(d)(7) requires a finding that the subdivision plan "mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis where applicable."

Under the Transportation System Plan Salem Heights Ave is designated as a "collector" street. SRC 803.015(b)(1) provides that a Traffic Impact Analysis is required if a development will generate more than 1,000 daily vehicle trips onto a collector. The order erroneously finds that because the Public Works Department estimated the subdivision would generate 345 average daily vehicle trips, no TIA is required.

The order errs because it applied only the criterion in 803.015(b)(1) relating to a collector street and ignored the criterion in 803.015(b)(2) which is applicable to Salem Heights Ave and would require a TIA given the current condition of the street. The order treats the collector street criterion under 803.015(b)(1) as if it is the only criterion. That is not the case. SRC 803.015(b) provides more than one criterion for consideration and states that an applicant "shall" provide a TIA if "one" of the conditions exist.

Subsection 803.015(b)(2) establishes that a Traffic Impact Analysis shall be provided if "The increased traffic resulting from the development will contribute to documented traffic problems based on current accident rates, traffic volumes or speeds, and identified locations where pedestrian and/or bicyclist safety is a concern."

This subsection is not based on street classification. It is based on the current condition of the street and the associated traffic and safety problems. City staff is basing its conclusion that a TIA is not required solely on the classification of Salem Heights Ave as a collector street and ignoring the existing conditions despite the fact that 803.015(b)(2) contemplates consideration of existing conditions regardless of street classification. The fact that Salem Heights is designated a collector street does not preclude application of the (b)(2) criterion to the subdivision.

By all accounts the conditions in 803.015(b)(2) exist. The City has recognized that while Salem Heights is a collector street, it is also identified in the Transportation System Plan as an unimproved collector not built to urban standards.

Salem Heights is a street with narrow traffic lanes, restricted sight lines and lacking in sidewalks and bike lanes. In the summer of 2018, the City gathered data on traffic and speeding on Salem Heights Ave using counters and dynamic speed signs at various locations. As reported by City staff at a SouthWest Area Neighbors Association meeting on September 11, 2018, there was an average of 1700 trips per day and an average speed of 32 mph and 35 mph at two different intersections, both of which are within a 25-mph zone. Staff noted that there were obviously speeding issues.

An increase of 345 trips per day is a 20 percent increase in traffic on a street that has documented traffic problems based on speeds and identified safety problems where pedestrian and bicyclist safety is a concern due to the lack of sidewalks and bike lanes. Consequently, the increased traffic will contribute to documented traffic problems and thus the conditions in 803.015(b)(2) apply to the development. And since 803.015(b) says an applicant "shall" provide a TIA if "one" of the conditions in the subsection applies, the applicant should be required to provide the TIA before any approval can be granted.

Furthermore, the order improperly dismisses concerns over the impact of the additional traffic because the subdivision design will provide safe and convenient pedestrian bicycle access with the subdivision itself, even though it will result in an additional amount of traffic that may be incompatible with the existing conditions of Salem Heights Ave. Those subdivision elements will provide for bicycle and pedestrian movement through the subdivision, but without a sufficient Traffic Impact Analysis the incremental benefits of these design elements for the Salem Heights area cannot be assumed

sufficient to offset the impacts of the added traffic on an unimproved Salem Heights Ave.

The findings in the order based on the arguments from staff related to the collector street designation are bureaucratic incongruency at its best. Staff is maintaining that it must apply the standards for a collector street that it admits does not meet those standards and is not likely to do so for some time. According to the staff memo the TSP specifies that improvements to Salem Heights Ave are a "low priority project to be completed within approximately 25 years." Then the staff suggests that because it is a low priority therefor the condition of Salem Heights Ave does not compromise safety to the extent the proposed development should be denied. There is no explanation as to how the designation as low priority is related to the safety of a collector street without sidewalks. Using the logic of the order and staff, traffic on Salem Heights Ave could increase by as much as 1000 additional trips (a 59 percent increase) without any Traffic Impact Analysis while residents of the street and area wait as much as 25 years before seeing any improvements to the rest of the street.

Salem Heights Ave is already unsafe for pedestrians and bicyclists and increasing the traffic levels by 20 percent will only make it worse. Given the conditions of the street, the criterion in 803.015(b)(2) apply to the subdivision application and a Traffic Impact Analysis must be conducted before any application can be approved.

B. The order errs in its finding that the proposed subdivision meets the criteria in SRC 205.010(d)(9) because it takes into account, to the extent possible, the topography and vegetation of the site to minimize the amount of disruption to the site topography and vegetation

The order's conclusion is based upon an assessment that the number of trees that will be preserved exceeds the minimum 25 percent preservation requirement under SRC Chapter 808. However simply exceeding the minimum does not mean that the applicant has minimized the disruption to the vegetation, particularly trees, on the site.

Furthermore, the order allows the removal of five significant white oaks based upon their location within future building envelopes or their location adjacent to required street or sidewalk improvements. This approval is based upon an assumption that there are no reasonable design alternatives that would enable their preservation. No Reasonable Alternative Analysis is attached to the order. The only reference is to an analysis related to tentative approval for removal of five street trees, some of which are not white oaks. However, this analysis is not provided in the order, nor is there any summary of the alternatives considered. The order implies that the analysis is driven by "future building envelopes," but it is unclear if reducing the number of units or revising the location of some proposed units was considered as an alternative to reduce the removal of trees.

The information cited in the order isn't sufficient to reach a conclusion that the proposed subdivision has minimized "to the extent possible" the disruption of vegetation and preservation of significant white oaks.

Another concern is that the order prematurely grants approval to the City to remove four of the nine trees located with the City right-of-way but not on the subdivision property. Two of these four trees are significant white oaks.

This conclusion is also premature. Once again it is the result of the City applying collector street standards to a street that is not built to those standards. In doing so they are making an assumption that future improvements will conform to the collector street template they have applied. This is an erroneous assumption that precludes preferred alternatives which the neighborhood may identify in a future planning process.

The Transportation System Plan Policy 4.1 Citizen Participation in Project Planning and Transportation Studies states "The City shall involve citizens in an advisory role in the planning of major new street projects, transportation studies, and updates to the Salem Transportation System Plan." Planning includes the study of alternatives and selection of preferred alternatives. The policy specifies that involvement may include citizen advisory committees, task forces, workshops and public meetings among the planning activities.

The City is beginning a process, including the establishment of an advisory committee, with residents of the Salem Heights Ave neighborhood for a Refinement Plan for future improvements to the street. The alternatives to be considered may not conform to the standards template being imposed on Salem Heights in the order's findings. Salem Heights has unique characteristics due to its development history and the preservation of trees and vegetation is something to which the residents of the area assign high import.

Any findings in the order regarding tree preservation and removal of trees on City right-of-way not on the subdivision property should not preclude alternatives that might be recommended during the Salem Heights Ave planning process established by the City. Trees adjacent to anticipated future required street and/or sidewalk improvements should not be removed until an improvement plan for Salem Heights Ave has been developed consistent with the Public Involvement Policy in the TSP and approved by the City.

A handwritten signature in cursive script, appearing to read "Ron Eubank".